

1 **REVISOR'S STATUTE**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Lyle W. Hillyard**

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**LONG TITLE**

9 **General Description:**

10 This bill modifies parts of the Utah Code to make technical corrections including  
11 wording, cross references, and numbering changes.

12 **Highlighted Provisions:**

13 This bill:

14 ► modifies parts of the Utah Code by making technical corrections including wording,  
15 cross referencing, and numbering changes.

16 **Monies Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 **AMENDS:**

22 **9-4-505**, as last amended by Chapter 95, Laws of Utah 2003

23 **9-4-704**, as last amended by Chapters 133 and 181, Laws of Utah 2001

24 **10-2-405**, as last amended by Chapters 211 and 292, Laws of Utah 2003

25 **10-2-411**, as last amended by Chapter 206, Laws of Utah 2001

26 **10-3-103**, as last amended by Chapter 17, Laws of Utah 1999

27 **10-3-104**, as last amended by Chapter 17, Laws of Utah 1999



- 29           **10-3-105**, as last amended by Chapter 292, Laws of Utah 2003  
30           **10-3-106**, as last amended by Chapter 1, Laws of Utah 2000  
31           **10-6-151**, as last amended by Chapter 9, Laws of Utah 2001  
32           **11-13-313**, as renumbered and amended by Chapter 286, Laws of Utah 2002  
33           **11-36-402**, as last amended by Chapter 211, Laws of Utah 2000  
34           **11-37-101**, as last amended by Chapter 159, Laws of Utah 2002  
35           **11-40-101**, as enacted by Chapter 39, Laws of Utah 2003  
36           **11-40-102**, as enacted by Chapter 39, Laws of Utah 2003  
37           **13-25a-103**, as last amended by Chapter 263, Laws of Utah 2003  
38           **17B-2-604**, as enacted by Chapter 284, Laws of Utah 2002  
39           **20A-7-203**, as last amended by Chapter 304, Laws of Utah 2003  
40           **20A-7-702**, as last amended by Chapter 331, Laws of Utah 2002  
41           **20A-11-101**, as last amended by Chapters 45 and 93, Laws of Utah 1999  
42           **31A-5-401.1**, as enacted by Chapter 95, Laws of Utah 1987  
43           **31A-7-201**, as last amended by Chapter 71, Laws of Utah 2002  
44           **31A-7-307**, as last amended by Chapter 91, Laws of Utah 1987  
45           **31A-8-103**, as last amended by Chapter 298, Laws of Utah 2003  
46           **31A-8-214**, as enacted by Chapter 204, Laws of Utah 1986  
47           **31A-8-215**, as last amended by Chapter 261, Laws of Utah 1989  
48           **31A-8-301**, as last amended by Chapter 344, Laws of Utah 1995  
49           **31A-8-402.7**, as enacted by Chapter 308, Laws of Utah 2002  
50           **31A-8-501**, as last amended by Chapter 263, Laws of Utah 2001  
51           **31A-11-104**, as last amended by Chapter 298, Laws of Utah 2003  
52           **31A-14-206**, as last amended by Chapter 203, Laws of Utah 1992  
53           **31A-14-214**, as last amended by Chapter 277, Laws of Utah 1992  
54           **31A-15-103**, as last amended by Chapter 298, Laws of Utah 2003  
55           **31A-18-106**, as last amended by Chapter 114, Laws of Utah 2000  
56           **31A-19a-403**, as renumbered and amended by Chapter 130, Laws of Utah 1999  
57           **31A-21-404**, as last amended by Chapter 298, Laws of Utah 2003  
58           **31A-22-101**, as enacted by Chapter 242, Laws of Utah 1985  
59           **31A-22-303**, as last amended by Chapter 187, Laws of Utah 2002

60           **31A-22-315**, as last amended by Chapter 269, Laws of Utah 1997  
61           **31A-22-400**, as last amended by Chapter 308, Laws of Utah 2002  
62           **31A-22-701**, as last amended by Chapter 116, Laws of Utah 2001  
63           **31A-22-802**, as last amended by Chapter 116, Laws of Utah 2001  
64           **31A-22-808**, as last amended by Chapter 116, Laws of Utah 2001  
65           **31A-23a-102**, as renumbered and amended by Chapter 298, Laws of Utah 2003  
66           **31A-25-202**, as last amended by Chapter 116, Laws of Utah 2001  
67           **31A-30-103**, as last amended by Chapters 114 and 308, Laws of Utah 2002  
68           **32A-11a-108**, as enacted by Chapter 328, Laws of Utah 1998  
69           **41-1a-120**, as last amended by Chapter 345, Laws of Utah 2000  
70           **41-12a-306**, as last amended by Chapter 92, Laws of Utah 1987  
71           **46-4-503**, as renumbered and amended by Chapters 20 and 209, Laws of Utah 2003  
72           **53-3-102**, as last amended by Chapter 200, Laws of Utah 2002  
73           **53B-2a-102**, as last amended by Chapters 233 and 289, Laws of Utah 2003  
74           **54-8a-8.5**, as enacted by Chapter 189, Laws of Utah 2001  
75           **57-8-38**, as enacted by Chapter 265, Laws of Utah 2003  
76           **58-1-301**, as last amended by Chapter 232, Laws of Utah 1997  
77           **58-37d-4**, as last amended by Chapter 115, Laws of Utah 2003  
78           **58-46a-305**, as enacted by Chapter 28, Laws of Utah 1994  
79           **58-55-103**, as enacted by Chapter 241, Laws of Utah 2002  
80           **58-55-302**, as last amended by Chapter 241, Laws of Utah 2002  
81           **58-63-102**, as last amended by Chapter 271, Laws of Utah 2001  
82           **59-2-103**, as last amended by Chapter 275, Laws of Utah 1995  
83           **59-7-605**, as last amended by Chapter 198, Laws of Utah 2003  
84           **59-10-127**, as last amended by Chapter 198, Laws of Utah 2003  
85           **59-12-1503**, as enacted by Chapter 282, Laws of Utah 2003  
86           **61-1-4**, as last amended by Chapters 160 and 232, Laws of Utah 1997  
87           **61-2-6**, as last amended by Chapter 232, Laws of Utah 1997  
88           **63-2-301**, as last amended by Chapters 97 and 191, Laws of Utah 2002  
89           **63-2-302**, as last amended by Chapters 39, 252 and 298, Laws of Utah 2003  
90           **63-34-13**, as last amended by Chapter 214, Laws of Utah 2003

- 91           **63-55-209**, as last amended by Chapter 291, Laws of Utah 2003  
92           **63-55-210**, as enacted by Chapter 323, Laws of Utah 2000  
93           **63-55-223**, as last amended by Chapter 140, Laws of Utah 1998  
94           **63-55-241**, as last amended by Chapters 72 and 369, Laws of Utah 2001  
95           **63-55-253**, as last amended by Chapters 84 and 238, Laws of Utah 2001  
96           **63-55-263**, as last amended by Chapters 16 and 254, Laws of Utah 2003  
97           **63-55-272**, as last amended by Chapter 185, Laws of Utah 2002  
98           **63-55b-126**, as last amended by Chapter 307, Laws of Utah 2002  
99           **63-55b-153**, as last amended by Chapters 131 and 223, Laws of Utah 2003  
100          **63-55b-159**, as last amended by Chapter 6, Laws of Utah 2001, First Special Session  
101          **63-55b-163**, as last amended by Chapter 212, Laws of Utah 2003  
102          **63-55b-167**, as enacted by Chapter 307, Laws of Utah 1999  
103          **63-55b-176**, as enacted by Chapter 366, Laws of Utah 1999  
104          **63A-3-205**, as last amended by Chapter 135, Laws of Utah 1996  
105          **63E-1-102**, as last amended by Chapters 8 and 291, Laws of Utah 2003  
106          **64-13-6**, as last amended by Chapter 45, Laws of Utah 2001  
107          **70C-6-101**, as last amended by Chapter 91, Laws of Utah 1987  
108          **70C-6-203**, as last amended by Chapter 91, Laws of Utah 1987  
109          **73-18c-307**, as enacted by Chapter 348, Laws of Utah 1997  
110          **75-7-309**, as enacted by Chapter 227, Laws of Utah 2002  
111          **76-7-301**, as last amended by Chapter 70, Laws of Utah 1993  
112          **76-7-302**, as last amended by Chapter 2, Laws of Utah 1991, First Special Session  
113          **77-13-6**, as last amended by Chapter 290, Laws of Utah 2003  
114          **77-32-401.5**, as enacted by Chapter 333, Laws of Utah 1998  
115          **78-3a-503 (Superseded 07/01/04)**, as last amended by Chapter 240, Laws of Utah 1998  
116          **78-11-22**, as last amended by Chapter 3, Laws of Utah 2003  
117          **78-31b-6**, as repealed and reenacted by Chapter 228, Laws of Utah 1994  
118          **78-31b-8**, as last amended by Chapter 288, Laws of Utah 2000  
119          REPEALS:  
120          **59-1-212**, as enacted by Chapter 263, Laws of Utah 1991  
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122 *Be it enacted by the Legislature of the state of Utah:*

123 Section 1. Section **9-4-505** is amended to read:

124 **9-4-505. Allocation of volume cap.**

125 (1) (a) Subject to Subsection (1)(b), the volume cap for each year shall be distributed  
126 by the board of review to the various allotment accounts as set forth in Section 9-4-506.

127 (b) The board of review may distribute up to 50% of each increase in the volume cap  
128 that occurs after [~~the effective date of this Subsection (1)(b)~~] March 11, 1999, for use in  
129 development that occurs in quality growth areas, depending upon the board's analysis of the  
130 relative need for additional volume cap between development in quality growth areas and the  
131 allotment accounts under Section 9-4-506.

132 (2) To obtain an allocation of the volume cap, issuing authorities shall submit to the  
133 board of review an application containing information required by the procedures and  
134 processes of the board of review.

135 (3) The board of review shall establish criteria for making allocations of volume cap  
136 that are consistent with the purposes of the code and this part. In making an allocation of  
137 volume cap the board of review shall consider the following:

138 (a) the principal amount of the bonds proposed to be issued;

139 (b) the nature and the location of the project or the type of program;

140 (c) the likelihood that the bonds will be sold and the timeframe of bond issuance;

141 (d) whether the project or program could obtain adequate financing without an  
142 allocation of volume cap;

143 (e) the degree to which an allocation of volume cap is required for the project or  
144 program to proceed or continue;

145 (f) the social, health, economic, and educational effects of the project or program on  
146 the local community and state as a whole;

147 (g) the anticipated economic development created or retained within the local  
148 community and the state as a whole;

149 (h) the anticipated number of jobs, both temporary and permanent, created or retained  
150 within the local community and the state as a whole;

151 (i) if the project is a residential rental project, the degree to which the residential rental  
152 project:

153 (i) targets lower income populations;  
154 (ii) is accessible housing; and  
155 (j) whether the project meets the principles of quality growth recommended by the  
156 Quality Growth Commission created under Section 11-38-201.

157 (4) The board of review shall evidence an allocation of volume cap by issuing a  
158 certificate in accordance with Section 9-4-507.

159 (5) (a) From January 1 to June 30, the board shall set aside at least 50% of the Small  
160 Issue Bond Account that may be allocated only to manufacturing projects.

161 (b) From July 1 to August 15, the board shall set aside at least 50% of the Pool  
162 Account that may be allocated only to manufacturing projects.

163 Section 2. Section **9-4-704** is amended to read:

164 **9-4-704. Distribution of fund moneys.**

165 (1) The executive director shall:

166 (a) make grants and loans from the fund for any of the activities authorized by Section  
167 9-4-705, as directed by the board;

168 (b) establish the criteria with the approval of the board by which loans and grants will  
169 be made; and

170 (c) determine with the approval of the board the order in which projects will be funded.

171 (2) The executive director shall distribute, as directed by the board, any federal moneys  
172 contained in the fund according to the procedures, conditions, and restrictions placed upon the  
173 use of those moneys by the federal government.

174 (3) (a) The executive director shall distribute, as directed by the board, any funds  
175 received pursuant to Section 17B-4-1010 to pay the costs of providing income targeted housing  
176 within the community that created the redevelopment agency under Title 17B, Chapter 4,  
177 Redevelopment Agencies Act.

178 (b) As used in Subsection (3)(a):

179 (i) "Community" has the meaning as defined in Subsection 17B-4-102~~(1)~~(10).

180 (ii) "Income targeted housing" has the meaning as defined in Subsection  
181 17B-4-1010(1).

182 (4) Except federal money and money received under Section 17B-4-1010, the  
183 executive director shall distribute, as directed by the board, all other moneys from the fund

184 according to the following requirements:

185 (a) Not less than 30% of all fund moneys shall be distributed to rural areas of the state.

186 (b) At least 50% of the moneys in the fund shall be distributed as loans to be repaid to  
187 the fund by the entity receiving them.

188 (i) (A) Of the fund moneys distributed as loans, at least 50% shall be distributed to  
189 benefit persons whose annual income is at or below 50% of the median family income for the  
190 state.

191 (B) The remaining loan moneys shall be distributed to benefit persons whose annual  
192 income is at or below 80% of the median family income for the state.

193 (ii) The executive director or his designee shall lend moneys in accordance with this  
194 Subsection (4) at a rate based upon the borrower's ability to pay.

195 (c) Any fund moneys not distributed as loans shall be distributed as grants.

196 (i) At least 90% of the fund moneys distributed as grants shall be distributed to benefit  
197 persons whose annual income is at or below 50% of the median family income for the state.

198 (ii) The remaining fund moneys distributed as grants may be used by the executive  
199 director to obtain federal matching funds or for other uses consistent with the intent of this part,  
200 including the payment of reasonable loan servicing costs, but no more than 3% of the revenues  
201 of the fund may be used to offset other department or board administrative expenses.

202 (5) The executive director may with the approval of the board:

203 (a) enact rules to establish procedures for the grant and loan process by following the  
204 procedures and requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act;  
205 and

206 (b) service or contract, pursuant to Title 63, Chapter 56, Utah Procurement Code, for  
207 the servicing of loans made by the fund.

208 Section 3. Section **10-2-405** is amended to read:

209 **10-2-405. Acceptance or rejection of an annexation petition -- Modified petition.**

210 (1) (a) (i) (A) A municipal legislative body may:

211 (I) except as provided in Subsection (1)(b) and subject to Subsection (1)(a)(i)(B), deny  
212 a petition filed under Section 10-2-403; or

213 (II) accept the petition for further consideration under this part.

214 (B) A petition shall be considered to have been accepted for further consideration

215 under this part if a municipal legislative body fails to act to deny or accept the petition under  
216 Subsection (1)(a)(i)(A):

217 (I) in the case of a city of the first or second class, within 14 days after the filing of the  
218 petition; or

219 (II) in the case of a city of the third, fourth, or fifth class or a town, at the next regularly  
220 scheduled meeting of the municipal legislative body that is at least 14 days after the date the  
221 petition was filed.

222 (ii) If a municipal legislative body denies a petition under Subsection (1)(a)(i)(A), it  
223 shall, within five days of the denial, mail written notice of the denial to the contact sponsor, the  
224 clerk of the county in which the area proposed for annexation is located, and the chair of the  
225 planning commission of each township in which any part of the area proposed for annexation is  
226 located.

227 (b) A municipal legislative body may not deny a petition filed under Section 10-2-403  
228 proposing to annex an area located in a county of the first class if:

229 (i) the petition contains the signatures of the owners of private real property that:

230 (A) is located within the area proposed for annexation;

231 (B) covers a majority of the private land area within the area proposed for annexation;

232 and

233 (C) is equal in value to at least 1/2 of the value of all private real property within the  
234 area proposed for annexation;

235 (ii) the population in the area proposed for annexation does not exceed 10% of the  
236 population of the proposed annexing municipality;

237 (iii) the property tax rate for municipal services in the area proposed to be annexed is  
238 higher than the property tax rate of the proposed annexing municipality; and

239 (iv) all annexations by the proposed annexing municipality during the year that the  
240 petition was filed have not increased the municipality's population by more than 20%.

241 (2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i)(A) or  
242 is considered to have accepted the petition under Subsection (1)(a)(i)(B), the city recorder or  
243 town clerk, as the case may be, shall, within 30 days of that acceptance:

244 (a) obtain from the assessor, clerk, surveyor, and recorder of the county in which the  
245 area proposed for annexation is located the records the city recorder or town clerk needs to



246 determine whether the petition meets the requirements of Subsections 10-2-403(2), (3), and (4);

247 (b) with the assistance of the municipal attorney, determine whether the petition meets  
248 the requirements of Subsections 10-2-403(2), (3), and (4); and

249 (c) (i) if the city recorder or town clerk determines that the petition meets those  
250 requirements, certify the petition and mail or deliver written notification of the certification to  
251 the municipal legislative body, the contact sponsor, the county legislative body, and the chair of  
252 the planning commission of each township in which any part of the area proposed for  
253 annexation is located; or

254 (ii) if the city recorder or town clerk determines that the petition fails to meet any of  
255 those requirements, reject the petition and mail or deliver written notification of the rejection  
256 and the reasons for the rejection to the municipal legislative body, the contact sponsor, the  
257 county legislative body, and the chair of the planning commission of each township in which  
258 any part of the area proposed for annexation is located.

259 (3) (a) (i) If the city recorder or town clerk rejects a petition under Subsection  
260 (2)(~~b~~)(c)(ii), the petition may be modified to correct the deficiencies for which it was rejected  
261 and then refiled with the city recorder or town clerk, as the case may be.

262 (ii) A signature on an annexation petition filed under Section 10-2-403 may be used  
263 toward fulfilling the signature requirement of Subsection 10-2-403(2)(b) for the petition as  
264 modified under Subsection (3)(a)(i).

265 (b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city  
266 recorder or town clerk under Subsection (2)(~~b~~)(c)(ii), the refiled petition shall be treated as a  
267 newly filed petition under Subsection 10-2-403(1).

268 (4) Each county assessor, clerk, surveyor, and recorder shall provide copies of records  
269 that a city recorder or town clerk requests under Subsection (2)(a).

270 Section 4. Section **10-2-411** is amended to read:

271 **10-2-411. Disqualification of commission member -- Alternate member.**

272 (1) A member of the boundary commission is disqualified with respect to a protest  
273 before the commission if that member owns property:

274 (a) for a proposed annexation of an area located within a county of the first class:

275 (i) within the area proposed for annexation in a petition that is the subject of the  
276 protest; or

277 (ii) that is in the unincorporated area within 1/2 mile of the area proposed for  
278 annexation in a petition that is the subject of a protest under Subsection  
279 10-2-407(1)(a)[~~(i)(D)~~](ii); or

280 (b) for a proposed annexation of an area located in a specified county, within the area  
281 proposed for annexation.

282 (2) If a member is disqualified under Subsection (1), the body that appointed the  
283 disqualified member shall appoint an alternate member to serve on the commission for  
284 purposes of the protest as to which the member is disqualified.

285 Section 5. Section **10-3-103** is amended to read:

286 **10-3-103. Governing body in cities of the first class.**

287 Except as provided under Subsection 10-2-303(1)(f), the governing body of each city of  
288 the first class that has not adopted an optional form of government under Part 12, [~~Alternative~~  
289 Optional Forms of Municipal Government Act, shall be a commission of five members of  
290 which one shall be the mayor and the remaining four shall be commissioners.

291 Section 6. Section **10-3-104** is amended to read:

292 **10-3-104. Governing body in cities of the second class.**

293 Except as provided under Subsection 10-2-303(1)(f), the governing body of each city of  
294 the second class that has not adopted an optional form of government under Part 12,  
295 [~~Alternative~~ Optional Forms of Municipal Government Act, shall be a commission of three  
296 members of which one shall be the mayor and the remaining two shall be commissioners.

297 Section 7. Section **10-3-105** is amended to read:

298 **10-3-105. Governing body in cities of the third, fourth, and fifth class.**

299 Except as provided under Subsection 10-2-303(1)(f), the governing body of each city of  
300 the third, fourth, or fifth class that has not adopted an optional form of government under Part  
301 12, [~~Alternative~~ Optional Forms of Municipal Government Act, shall be a council composed  
302 of six members, one of whom shall be the mayor and the remaining five shall be council  
303 members.

304 Section 8. Section **10-3-106** is amended to read:

305 **10-3-106. Governing body in towns.**

306 The governing body of each town that has not adopted an optional form of government  
307 under Part 12, [~~Alternative~~ Optional Forms of Municipal Government Act, shall be a council

308 of five persons one of whom shall be the mayor and the remaining four shall be council  
309 members.

310 Section 9. Section **10-6-151** is amended to read:

311 **10-6-151. Independent audits required.**

312 Independent audits of all cities are required, to be performed in conformity with Title  
313 51, Chapter 2, Audits of Political Subdivisions, Interlocal Organizations and Other Local  
314 Entities. In the case of a city organized under Title 10, Chapter 3, Part 12, [~~Alternative~~  
315 Optional Forms of Municipal Government Act], the council shall appoint an independent  
316 auditor for the purpose of complying with the requirements of this section and of Title 51,  
317 Chapter 2, Audits of Political Subdivisions, Interlocal Organizations and Other Local Entities.

318 Section 10. Section **11-13-313** is amended to read:

319 **11-13-313. Arbitration of disputes.**

320 Any impact alleviation contract may provide that disputes between the parties will be  
321 submitted to arbitration pursuant to Title 78, Chapter 31a, Utah Uniform Arbitration Act.

322 Section 11. Section **11-36-402** is amended to read:

323 **11-36-402. Challenging an impact fee by arbitration -- Procedure -- Appeal --**  
324 **Costs.**

325 (1) Each person or entity intending to challenge an impact fee under Subsection  
326 11-36-401(4)(c)(ii) shall file a written request for arbitration with the local political subdivision  
327 within the time limitation provided in Subsection 11-36-401(4)(b) for the applicable type of  
328 challenge.

329 (2) If a person or entity files a written request for arbitration under Subsection (1), an  
330 arbitrator or arbitration panel shall be selected as follows:

331 (a) the local political subdivision and the person or entity filing the request may agree  
332 on a single arbitrator within ten days after the day the request for arbitration is filed; or

333 (b) if a single arbitrator is not agreed to in accordance with Subsection (2)(a), an  
334 arbitration panel shall be created with the following members:

335 (i) each party shall select an arbitrator within 20 days after the date the request is filed;  
336 and

337 (ii) the arbitrators selected under Subsection (2)(b)(i) shall select a third arbitrator.

338 (3) The arbitration panel shall hold a hearing on the challenge within 30 days after the

339 date:

340 (a) the single arbitrator is agreed on under Subsection (2)(a); or

341 (b) the two arbitrators are selected under Subsection (2)(b)(i).

342 (4) The arbitrator or arbitration panel shall issue a decision in writing within ten days

343 from the date the hearing under Subsection (3) is completed.

344 (5) Except as provided in this section, each arbitration shall be governed by Title 78,

345 Chapter 31a, Utah Uniform Arbitration Act.

346 (6) The parties may agree to:

347 (a) binding arbitration;

348 (b) formal, nonbinding arbitration; or

349 (c) informal, nonbinding arbitration.

350 (7) If the parties agree in writing to binding arbitration:

351 (a) the arbitration shall be binding;

352 (b) the decision of the arbitration panel shall be final;

353 (c) neither party may appeal the decision of the arbitration panel; and

354 (d) notwithstanding Subsection (10), the person or entity challenging the impact fee  
355 may not also challenge the impact fee under Subsection 11-36-401(1), (4)(c)(i), or (4)(c)(iii).

356 (8) (a) Except as provided in Subsection (8)(b), if the parties agree to formal,  
357 nonbinding arbitration, the arbitration shall be governed by the provisions of Title 63, Chapter  
358 46b, Administrative Procedures Act.

359 (b) For purposes of applying Title 63, Chapter 46b, Administrative Procedures Act, to  
360 a formal, nonbinding arbitration under this section, notwithstanding Section 63-46b-20,  
361 "agency" means a local political subdivision.

362 (9) (a) An appeal from a decision in an informal, nonbinding arbitration may be filed  
363 with the district court in which the local political subdivision is located.

364 (b) Each appeal under Subsection (9)(a) shall be filed within 30 days after the date the  
365 arbitration panel issues a decision under Subsection (4).

366 (c) The district court shall consider de novo each appeal filed under this Subsection (9).

367 (d) Notwithstanding Subsection (10), a person or entity that files an appeal under this  
368 Subsection (9) may not also challenge the impact fee under Subsection 11-36-401(1), (4)(c)(i),  
369 or (4)(c)(iii).

370 (10) (a) Except as provided in Subsections (7)(d) and (9)(d), this section may not be  
 371 construed to prohibit a person or entity from challenging an impact fee as provided in  
 372 Subsection 11-36-401(1), (4)(c)(i), or (4)(c)(iii).

373 (b) The filing of a written request for arbitration within the required time in accordance  
 374 with Subsection (1) tolls all time limitations under Section 11-36-401 until the date the  
 375 arbitration panel issues a decision.

376 (11) The person or entity filing a request for arbitration and the local political  
 377 subdivision shall equally share all costs of an arbitration proceeding under this section.

378 Section 12. Section **11-37-101** is amended to read:

379 **11-37-101. Definition -- Procurement -- Use of recycled goods.**

380 (1) "Local government entity" means:

381 (a) municipalities, cities, and counties;

382 (b) entities created under Title 26A, Chapter 1, Local Health [~~Department~~]

383 Departments; and

384 (c) political subdivisions created by cities or counties, including entities created under:

385 [~~(i)~~] (i) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act; and

386 [~~(ii)~~] (ii) Title 11, Chapter 13, Interlocal Cooperation Act[;].

387 [~~(iii) Title 9, Chapter 13, Utah Technology and Small Business Finance Act.]~~

388 (2) The procurement officer or other person responsible for purchasing supplies for  
 389 each local government entity shall:

390 (a) maintain for reference a copy of the current listing of recycled items available on  
 391 state contract as issued by the chief procurement officer under Section 63-56-9; and

392 (b) give recycled items consideration when inviting bids and purchasing supplies.

393 Section 13. Section **11-40-101** is amended to read:

394 **11-40-101. Definitions.**

395 As used in this chapter:

396 (1) "Applicant" means a person who seeks employment with a public water utility,  
 397 either as an employee or as an independent contractor, and who, after employment, would, in  
 398 the judgment of the public water utility, be in a position to affect the safety or security of the  
 399 [~~public~~] publicly owned treatment works or public water system or to affect the safety or  
 400 well-being of patrons of the public water utility.

401 (2) "Division" means the Criminal Investigation and Technical Services Division of the  
402 Department of Public Safety, established in Section 53-10-103.

403 (3) "Independent contractor":

404 (a) means an engineer, contractor, consultant, or supplier who designs, constructs,  
405 operates, maintains, repairs, replaces, or provides water treatment or conveyance facilities or  
406 equipment, or related control or security facilities or equipment, to the public water utility; and

407 (b) includes the employees and agents of the engineer, contractor, consultant, or  
408 supplier.

409 (4) "Person seeking access" means a person who seeks access to a public water utility's  
410 public water system or ~~[public]~~ publicly owned treatment works and who, after obtaining  
411 access, would, in the judgment of the public water utility, be in a position to affect the safety or  
412 security of the ~~[public]~~ publicly owned treatment works or public water system or to affect the  
413 safety or well-being of patrons of the public water utility.

414 (5) "~~[Public]~~ Publicly owned treatment works" has the same meaning as defined in  
415 Section 19-5-102.

416 (6) "Public water system" has the same meaning as defined in Section 19-4-102.

417 (7) "Public water utility" means a county, city, town, independent special district under  
418 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,  
419 Local Districts, or other political subdivision of the state that operates ~~[public]~~ publicly owned  
420 treatment works or a public water system.

421 Section 14. Section **11-40-102** is amended to read:

422 **11-40-102. Criminal background check authorized -- Written notice required.**

423 (1) A public water utility may:

424 (a) require an applicant to submit to a criminal background check as a condition of  
425 employment;

426 (b) periodically require existing employees of the public water utility to submit to a  
427 criminal background check if, in the judgment of the public water utility, the employee is in a  
428 position to affect the safety or security of the ~~[public]~~ publicly owned treatment works or  
429 public water system or to affect the safety or well-being of patrons of the public water utility;  
430 and

431 (c) require a person seeking access to submit to a criminal background check as a

432 condition of acquiring access.

433 (2) (a) Each applicant, person seeking access, and existing employee described in  
434 Subsection (1)(b) shall, if required by the public water utility:

435 (i) submit a fingerprint card in a form acceptable to the division; and

436 (ii) consent to a fingerprint background check by:

437 (A) the Utah Bureau of Criminal Identification; and

438 (B) the Federal Bureau of Investigation.

439 (b) If requested by a public water utility, the division shall request the Department of  
440 Public Safety to complete a Federal Bureau of Investigation criminal background check for  
441 each applicant, person seeking access, or existing employee through a national criminal history  
442 system.

443 (c) (i) A public water utility may make an applicant's employment with the public  
444 water utility or the access of a person seeking access conditional pending completion of a  
445 criminal background check under this section.

446 (ii) If a criminal background check discloses that an applicant or a person seeking  
447 access failed to disclose accurately a criminal history, the public water utility may deny or, if  
448 conditionally given, immediately terminate the applicant's employment or the person's access.

449 (iii) If an applicant or person seeking access accurately disclosed the relevant criminal  
450 history and the criminal background check discloses that the applicant or person seeking access  
451 has been convicted of a crime that indicates a potential risk for the safety of the public water  
452 utility's public water system or ~~public~~ publicly owned treatment works or for the safety or  
453 well-being of patrons of the public water utility, the public water utility may deny or, if  
454 conditionally given, immediately terminate the applicant's employment or the person's access.

455 (3) Each public water utility that requests a criminal background check under  
456 Subsection (1) shall prepare criteria for which criminal activity will preclude employment and  
457 shall provide written notice to the person who is the subject of the criminal background check  
458 that the background check has been requested.

459 Section 15. Section **13-25a-103** is amended to read:

460 **13-25a-103. Prohibited conduct for telephone solicitations -- Exceptions.**

461 (1) Except as provided in Subsection (2), a person may not operate or authorize the  
462 operation of an automated telephone dialing system to make a telephone solicitation.

463 (2) A person may operate an automated telephone dialing system if a call is made:

464 (a) with the prior express consent of the person who is called agreeing to receive a  
465 telephone solicitation from a specific solicitor;

466 (b) to a person with whom the solicitor has an established business relationship; or

467 (c) by or on behalf of a charitable organization as defined in Section 13-22-2.

468 (3) A person may not make a telephone solicitation to a residential telephone without  
469 prior express consent during any of the following times:

470 (a) before 8 a.m. or after 9 p.m. local time;

471 (b) on a Sunday; or

472 (c) on a legal holiday.

473 (4) A person may not make or authorize a telephone solicitation in violation of Title 47  
474 U.S.C. 227.

475 (5) Any telephone solicitor who makes an unsolicited telephone call to a telephone  
476 number shall:

477 (a) identify [~~themselves~~] the telephone solicitor;

478 (b) identify the business on whose behalf the [~~person~~] the telephone solicitor is  
479 soliciting;

480 (c) identify the purpose of the call promptly upon making contact by telephone with the  
481 person who is the object of the telephone solicitation;

482 (d) discontinue the solicitation if the person being solicited gives a negative response at  
483 any time during the telephone call; and

484 (e) hang up the phone, or in the case of an automated telephone dialing system  
485 operator, disconnect the automated telephone dialing system from the telephone line within 25  
486 seconds of the termination of the call by the person being called.

487 (6) A telephone solicitor may not withhold the display of the telephone solicitor's  
488 telephone number from a caller identification service when that number is being used for  
489 telemarketing purposes and when the telephone solicitor's service or equipment is capable of  
490 allowing the display of the number.

491 Section 16. Section **17B-2-604** is amended to read:

492 **17B-2-604. Withdrawal petition requirements.**

493 (1) Each petition under Section 17B-2-603 shall:



494 (a) indicate the typed or printed name and current address of each owner of acre-feet of  
495 water, property owner, registered voter, or authorized representative of the governing body  
496 signing the petition;

497 (b) separately group signatures by municipality and, in the case of unincorporated  
498 areas, by county;

499 (c) if it is a petition signed by the owners of land, the assessment of which is based on  
500 acre-feet of water, indicate the address of the property and the property tax identification parcel  
501 number of the property as to which the owner is signing the request;

502 (d) designate up to three signers of the petition as sponsors, or in the case of a petition  
503 filed under Subsection 17B-2-603(1)(a)(iv), designate a governmental representative as a  
504 sponsor, and in each case, designate one sponsor as the contact sponsor with the mailing  
505 address and telephone number of each;

506 (e) state the reasons for withdrawal; and

507 (f) when the petition is filed with the local district board of trustees, be accompanied by  
508 a map generally depicting the boundaries of the area proposed to be withdrawn and a legal  
509 description of the area proposed to be withdrawn.

510 (2) (a) The local district may prepare an itemized list of expenses, other than attorney  
511 expenses, that will necessarily be incurred by the local district in the withdrawal proceeding.  
512 The itemized list of expenses may be submitted to the contact sponsor. If the list of expenses is  
513 submitted to the contact sponsor within 21 days after receipt of the petition, the contact sponsor  
514 on behalf of the petitioners shall be required to pay the expenses to the local district within 90  
515 days of receipt. Until funds to cover the expenses are delivered to the local district, the district  
516 will have no obligation to proceed with the withdrawal and the time limits on the district stated  
517 in this part will be tolled. If the expenses are not paid within the 90 days, or within 90 days  
518 from the conclusion of any arbitration under Subsection (2)(b), the petition requesting the  
519 withdrawal shall be considered to have been withdrawn.

520 (b) If there is no agreement between the board of trustees of the local district and the  
521 contact sponsor on the amount of expenses that will necessarily be incurred by the local district  
522 in the withdrawal proceeding, either the board of trustees or the contact sponsor may submit  
523 the matter to binding arbitration in accordance with Title 78, Chapter 31b, Alternative Dispute  
524 Resolution Act; provided that, if the parties cannot agree upon an arbitrator and the rules and

525 procedures that will control the arbitration, either party may pursue arbitration under Title 78,  
526 Chapter 31a, Utah Uniform Arbitration Act.

527 (3) A signer of a petition may withdraw or, once withdrawn, reinstate the signer's  
528 signature at any time before the public hearing under Section 17B-2-606 by submitting a  
529 written withdrawal or reinstatement with the board of trustees of the local district in which the  
530 area proposed to be withdrawn is located.

531 (4) If it reasonably appears that, if the withdrawal which is the subject of a petition  
532 filed under Subsection 17B-2-603(1)(a)(i) or (ii) is granted, it will be necessary for a  
533 municipality to provide to the withdrawn area the service previously supplied by the local  
534 district, the board of trustees of the local district may, within 21 days after receiving the  
535 petition, notify the contact sponsor in writing that, before it will be considered by the board of  
536 trustees, the petition must be presented to and approved by the governing body of the  
537 municipality as provided in Subsection 17B-2-603(1)(a)(iv) before it will be considered by the  
538 local district board of trustees. If the notice is timely given to the contact sponsor, the petition  
539 shall be considered to have been withdrawn until the municipality files a petition with the local  
540 district under Subsection 17B-2-603(1)(a)(iv).

541 (5) (a) After receiving the notice required by Subsection 17B-2-603(2), unless  
542 specifically allowed by law, a public entity may not make expenditures from public funds to  
543 support or oppose the gathering of signatures on a petition for withdrawal.

544 (b) Nothing in this section prohibits a public entity from providing factual information  
545 and analysis regarding a withdrawal petition to the public, so long as the information grants  
546 equal access to both the opponents and proponents of the petition for withdrawal.

547 (c) Nothing in this section prohibits a public official from speaking, campaigning,  
548 contributing personal monies, or otherwise exercising the public official's constitutional rights.

549 Section 17. Section **20A-7-203** is amended to read:

550 **20A-7-203. Form of initiative petition and signature sheets.**

551 (1) (a) Each proposed initiative petition shall be printed in substantially the following  
552 form:

553 "INITIATIVE PETITION To the Honorable \_\_\_\_\_, Lieutenant Governor:

554 We, the undersigned citizens of Utah, respectfully demand that the following proposed  
555 law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the

556 regular general election/session to be held/ beginning on \_\_\_\_\_(month\day\year);

557 Each signer says:

558 I have personally signed this petition;

559 I am registered to vote in Utah or intend to become registered to vote in Utah before the  
560 certification of the petition names by the county clerk; and

561 My residence and post office address are written correctly after my name.

562 NOTICE TO SIGNERS:

563 Public hearings to discuss this petition were held at: (list dates and locations of public  
564 hearings.)"

565 (b) The sponsors of an initiative shall attach a copy of the proposed law to each  
566 initiative petition.

567 (2) Each signature sheet shall:

568 (a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

569 (b) be ruled with a horizontal line 3/4 inch from the top, with the space above that line  
570 blank for the purpose of binding;

571 (c) contain the title of the initiative printed below the horizontal line;

572 (d) contain the word "Warning" printed or typed at the top of each signature sheet  
573 under the title of the initiative;

574 (e) contain, to the right of the word "Warning," the following statement printed or  
575 typed in not less than eight-point, single leaded type:

576 "It is a class A misdemeanor for anyone to sign any initiative petition with any other  
577 name than his own, or knowingly to sign his name more than once for the same measure, or to  
578 sign an initiative petition when he knows he is not a registered voter and knows that he does  
579 not intend to become registered to vote before the certification of the petition names by the  
580 county clerk."; and

581 (f) be vertically divided into columns as follows:

582 (i) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be  
583 headed with "For Office Use Only," and be subdivided with a light vertical line down the  
584 middle with the left subdivision entitled "Registered" and the right subdivision left untitled;

585 (ii) the next column shall be three inches wide, headed "Registered Voter's Printed  
586 Name (must be legible to be counted)";

587 (iii) the next column shall be three inches wide, headed "Signature of Registered  
588 Voter"; and

589 (iv) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip  
590 Code".

591 (3) The final page of each initiative packet shall contain the following printed or typed  
592 statement:

593 "Verification  
594 State of Utah, County of \_\_\_\_

595 I, \_\_\_\_\_, of \_\_\_\_\_, hereby state that:

596 I am a resident of Utah and am at least 18 years old;

597 All the names that appear in this packet were signed by persons who professed to be the  
598 persons whose names appear in it, and each of them signed his name on it in my presence;

599 I believe that each has printed and signed his name and written his post office address  
600 and residence correctly, and that each signer is registered to vote in Utah or intends to become  
601 registered to vote before the certification of the petition names by the county clerk.

602 I have not paid or given anything of value to any person who signed this petition to  
603 encourage [~~them~~] that person to sign it.

604 \_\_\_\_\_  
605 (Name) (Residence Address) (Date)"

606 (4) The forms prescribed in this section are not mandatory, and, if substantially  
607 followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical  
608 errors.

609 Section 18. Section **20A-7-702** is amended to read:

610 **20A-7-702. Voter information pamphlet -- Form -- Contents -- Distribution.**

611 (1) The lieutenant governor shall ensure that all information submitted for publication  
612 in the voter information pamphlet is:

613 (a) printed and bound in a single pamphlet;

614 (b) printed in clear readable type, no less than ten-point, except that the text of any  
615 measure may be set forth in eight-point type; and

616 (c) printed on a quality and weight of paper that best serves the voters.

617 (2) The voter information pamphlet shall contain the following items in this order:

- 618 (a) a cover title page;
- 619 (b) an introduction to the pamphlet by the lieutenant governor;
- 620 (c) a table of contents;
- 621 (d) a list of all candidates for constitutional offices;
- 622 (e) a list of candidates for each legislative district;
- 623 (f) a 100-word statement of qualifications for each candidate for the office of governor,  
624 lieutenant governor, attorney general, state auditor, or state treasurer, if submitted by the  
625 candidate to the lieutenant governor's office before July 15 at 5 p.m.;
- 626 (g) information pertaining to all measures to be submitted to the voters, beginning a  
627 new page for each measure and containing, in the following order for each measure:
- 628 (i) a copy of the number and ballot title of the measure;
- 629 (ii) the final vote cast by the Legislature on the measure if it is a measure submitted by  
630 the Legislature or by referendum;
- 631 (iii) the impartial analysis of the measure prepared by the Office of Legislative  
632 Research and General Counsel;
- 633 (iv) the arguments in favor of the measure, the rebuttal to the arguments in favor of the  
634 measure, the arguments against the measure, and the rebuttal to the arguments against the  
635 measure, with the name and title of the authors at the end of each argument or rebuttal;
- 636 (v) for each constitutional amendment, a complete copy of the text of the constitutional  
637 amendment, with all new language underlined, and all deleted language placed within brackets;  
638 and
- 639 (vi) for each initiative qualified for the ballot, a copy of the measure as certified by the  
640 lieutenant governor;
- 641 (h) a description provided by the Judicial Council of the selection and retention process  
642 for judges, including, in the following order:
- 643 (i) a description of the judicial selection process;
- 644 (ii) a description of the judicial performance evaluation process;
- 645 (iii) a description of the judicial retention election process;
- 646 (iv) a list of the criteria and minimum standards of judicial performance evaluation;
- 647 (v) the names of the judges standing for retention election; and
- 648 (vi) for each judge:

- 649 (A) the counties in which the judge is subject to retention election;
- 650 (B) a short biography of professional qualifications and a recent photograph;
- 651 (C) for each standard of performance, a statement identifying whether or not the judge  
652 met the standard and, if not, the manner in which the judge failed to meet the standard;
- 653 (D) a statement provided by the Utah Supreme Court identifying the cumulative  
654 number of informal reprimands, when consented to by the judge in accordance with [~~Section~~  
655 ~~78-7-107~~] Subsection 78-8-107(2)(d), formal reprimands, and all orders of censure and  
656 suspension issued by the Utah Supreme Court under Utah Constitution Article VIII, Section 13  
657 during the judge's current term and the immediately preceding term, and a detailed summary of  
658 the supporting reasons for each violation of the Code of Judicial Conduct that the judge has  
659 received; and
- 660 (E) a statement identifying whether or not the judge was certified by the Judicial  
661 Council;
- 662 (vii) (A) except as provided in Subsection (2)(h)(vii)(B), for each judge, in graphic  
663 format, the responses for each attorney, jury, and other survey question used by the Judicial  
664 Council for certification of judges, displayed in 1% increments;
- 665 (B) notwithstanding Subsection (2)(h)(vii)(A), if the sample size for the survey for a  
666 particular judge is too small to provide statistically reliable information in 1% increments, the  
667 survey results for that judge shall be reported as being above or below 70% and a statement by  
668 the surveyor explaining why the survey is statistically unreliable shall also be included;
- 669 (i) an explanation of ballot marking procedures prepared by the lieutenant governor,  
670 indicating the ballot marking procedure used by each county and explaining how to mark the  
671 ballot for each procedure;
- 672 (j) voter registration information, including information on how to obtain an absentee  
673 ballot;
- 674 (k) a list of all county clerks' offices and phone numbers; and
- 675 (l) on the back cover page, a printed copy of the following statement signed by the  
676 lieutenant governor:
- 677 "I, \_\_\_\_\_ (print name), Lieutenant Governor of Utah, certify that the  
678 measures contained in this pamphlet will be submitted to the voters of Utah at the election to  
679 be held throughout the state on \_\_\_\_ (date of election), and that this pamphlet is complete and

680 correct according to law. SEAL

681 Witness my hand and the Great Seal of the State, at Salt Lake City, Utah this \_\_\_\_ day

682 of \_\_\_\_ (month), \_\_\_\_ (year)

683 (signed) \_\_\_\_\_

684 Lieutenant Governor"

685 (3) The lieutenant governor shall:

686 (a) ensure that one copy of the voter information pamphlet is placed in one issue of

687 every newspaper of general circulation in the state not more than 40 nor less than 15 days

688 before the day fixed by law for the election;

689 (b) ensure that a sufficient number of printed voter information pamphlets are available

690 for distribution as required by this section;

691 (c) provide voter information pamphlets to each county clerk for free distribution upon

692 request and for placement at polling places; and

693 (d) ensure that the distribution of the voter information pamphlets is completed 15 days

694 before the election.

695 Section 19. Section **20A-11-101** is amended to read:

696 **20A-11-101. Definitions.**

697 As used in this chapter:

698 (1) "Address" means the number and street where an individual resides or where a

699 reporting entity has its principal office.

700 (2) "Ballot proposition" includes initiatives, referenda, proposed constitutional

701 amendments, and any other ballot propositions submitted to the voters that are authorized by

702 the Utah Code Annotated 1953.

703 (3) "Candidate" means any person who:

704 (a) files a declaration of candidacy for a public office; or

705 (b) receives contributions, makes expenditures, or gives consent for any other person to

706 receive contributions or make expenditures to bring about the person's nomination or election

707 to a public office.

708 (4) "Chief election officer" means:

709 (a) the lieutenant governor for state office candidates, legislative office candidates,

710 officeholders, political parties, political action committees, corporations, political issues

711 committees, and state school board candidates; and

712 (b) the county clerk for local school board candidates.

713 (5) "Continuing political party" means an organization of voters that participated in the  
714 last regular general election and polled a total vote equal to 2% or more of the total votes cast  
715 for all candidates for the United States House of Representatives.

716 (6) (a) "Contribution" means any of the following when done for political purposes:

717 (i) a gift, subscription, donation, loan, advance, or deposit of money or anything of  
718 value given to the filing entity;

719 (ii) an express, legally enforceable contract, promise, or agreement to make a gift,  
720 subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or  
721 anything of value to the filing entity;

722 (iii) any transfer of funds from another reporting entity or a corporation to the filing  
723 entity;

724 (iv) compensation paid by any person or reporting entity other than the filing entity for  
725 personal services provided without charge to the filing entity;

726 (v) remuneration from any organization or its directly affiliated organization that has a  
727 registered lobbyist to compensate a legislator for a loss of salary or income while the  
728 Legislature is in session;

729 (vi) salaries or other remuneration paid to a legislator by any agency or subdivision of  
730 the state, including school districts, for the period the Legislature is in session; and

731 (vii) goods or services provided to or for the benefit of the filing entity at less than fair  
732 market value.

733 (b) "Contribution" does not include:

734 (i) services provided without compensation by individuals volunteering a portion or all  
735 of their time on behalf of the filing entity; or

736 (ii) money lent to the filing entity by a financial institution in the ordinary course of  
737 business.

738 (7) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business  
739 organization that is registered as a corporation or is authorized to do business in a state and  
740 makes any expenditure from corporate funds for:

741 (i) political purposes; or



- 742 (ii) the purpose of influencing the approval or the defeat of any ballot proposition.
- 743 (b) "Corporation" does not mean:
- 744 (i) a business organization's political action committee or political issues committee; or
- 745 (ii) a business entity organized as a partnership or a sole proprietorship.
- 746 (8) "Detailed listing" means:
- 747 (a) for each contribution or public service assistance:
- 748 (i) the name and address of the individual or source making the contribution or public
- 749 service assistance;
- 750 (ii) the amount or value of the contribution or public service assistance; and
- 751 (iii) the date the contribution or public service assistance was made; and
- 752 (b) for each expenditure:
- 753 (i) the amount of the expenditure;
- 754 (ii) the person or entity to whom it was disbursed;
- 755 (iii) the specific purpose, item, or service acquired by the expenditure; and
- 756 (iv) the date the expenditure was made.
- 757 (9) "Election" means each:
- 758 (a) regular general election;
- 759 (b) regular primary election; and
- 760 (c) special election at which candidates are eliminated and selected.
- 761 (10) (a) "Expenditure" means:
- 762 (i) any disbursement from contributions, receipts, or from the separate bank account
- 763 required by this chapter;
- 764 (ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,
- 765 or anything of value made for political purposes;
- 766 (iii) an express, legally enforceable contract, promise, or agreement to make any
- 767 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of
- 768 value for political purposes;
- 769 (iv) compensation paid by a corporation or filing entity for personal services rendered
- 770 by a person without charge to a reporting entity;
- 771 (v) a transfer of funds between the filing entity and a candidate's personal campaign
- 772 committee; or

773 (vi) goods or services provided by the filing entity to or for the benefit of another  
774 reporting entity for political purposes at less than fair market value.

775 (b) "Expenditure" does not include:

776 (i) services provided without compensation by individuals volunteering a portion or all  
777 of their time on behalf of a reporting entity;

778 (ii) money lent to a reporting entity by a financial institution in the ordinary course of  
779 business; or

780 (iii) anything listed in Subsection [~~5~~](10)(a) that is given by a corporation or  
781 reporting entity to candidates for office or officeholders in states other than Utah.

782 (11) "Filing entity" means the reporting entity that is filing a report required by this  
783 chapter.

784 (12) "Financial statement" includes any summary report, interim report, or other  
785 statement disclosing contributions, expenditures, receipts, donations, or disbursements that is  
786 required by this chapter.

787 (13) "Governing board" means the individual or group of individuals that determine the  
788 candidates and committees that will receive expenditures from a political action committee.

789 (14) "Incorporation" means the process established by Title 10, Chapter 2, Part 1,  
790 Incorporation, by which a geographical area becomes legally recognized as a city or town.

791 (15) "Incorporation election" means the election authorized by Section 10-2-111.

792 (16) "Incorporation petition" means a petition authorized by Section 10-2-109.

793 (17) "Individual" means a natural person.

794 (18) "Interim report" means a report identifying the contributions received and  
795 expenditures made since the last report.

796 (19) "Legislative office" means the office of state senator, state representative, speaker  
797 of the House of Representatives, president of the Senate, and the leader, whip, and assistant  
798 whip of any party caucus in either house of the Legislature.

799 (20) "Legislative office candidate" means a person who:

800 (a) files a declaration of candidacy for the office of state senator or state representative;

801 (b) declares himself to be a candidate for, or actively campaigns for, the position of  
802 speaker of the House of Representatives, president of the Senate, or the leader, whip, and  
803 assistant whip of any party caucus in either house of the Legislature; and

804 (c) receives contributions, makes expenditures, or gives consent for any other person to  
805 receive contributions or make expenditures to bring about the person's nomination or election  
806 to a legislative office.

807 (21) "Newly registered political party" means an organization of voters that has  
808 complied with the petition and organizing procedures of this chapter to become a registered  
809 political party.

810 (22) "Officeholder" means a person who holds a public office.

811 (23) "Party committee" means any committee organized by or authorized by the  
812 governing board of a registered political party.

813 (24) "Person" means both natural and legal persons, including individuals, business  
814 organizations, personal campaign committees, party committees, political action committees,  
815 political issues committees, labor unions, and labor organizations.

816 (25) "Personal campaign committee" means the committee appointed by a candidate to  
817 act for the candidate as provided in this chapter.

818 (26) (a) "Political action committee" means an entity, or any group of individuals or  
819 entities within or outside this state, that solicits or receives contributions from any other person,  
820 group, or entity or makes expenditures for political purposes. A group or entity may not divide  
821 or separate into units, sections, or smaller groups for the purpose of avoiding the financial  
822 reporting requirements of this chapter, and substance shall prevail over form in determining the  
823 scope or size of a political action committee.

824 (b) "Political action committee" includes groups affiliated with a registered political  
825 party but not authorized or organized by the governing board of the registered political party  
826 that receive contributions or makes expenditures for political purposes.

827 (c) "Political action committee" does not mean:

828 (i) a party committee;

829 (ii) any entity that provides goods or services to a candidate or committee in the regular  
830 course of its business at the same price that would be provided to the general public;

831 (iii) an individual;

832 (iv) individuals who are related and who make contributions from a joint checking  
833 account;

834 (v) a corporation; or

835 (vi) a personal campaign committee.

836 (27) "Political convention" means a county or state political convention held by a  
837 registered political party to select candidates.

838 (28) (a) "Political issues committee" means an entity, or any group of individuals or  
839 entities within or outside this state, that solicits or receives donations from any other person,  
840 group, or entity or makes disbursements to influence, or to intend to influence, directly or  
841 indirectly, any person to:

842 (i) assist in placing a statewide ballot proposition on the ballot, assist in keeping a  
843 statewide ballot proposition off the ballot, or refrain from voting or vote for or vote against any  
844 statewide ballot proposition; or

845 (ii) sign or refuse to sign an incorporation petition or refrain from voting, vote for, or  
846 vote against any proposed incorporation in an incorporation election.

847 (b) "Political issues committee" does not mean:

848 (i) a registered political party or a party committee;

849 (ii) any entity that provides goods or services to an individual or committee in the  
850 regular course of its business at the same price that would be provided to the general public;

851 (iii) an individual;

852 (iv) individuals who are related and who make contributions from a joint checking  
853 account; or

854 (v) a corporation, except a corporation whose apparent purpose is to act as a political  
855 issues committee.

856 (29) (a) "Political issues contribution" means any of the following:

857 (i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or  
858 anything of value given to a political issues committee;

859 (ii) an express, legally enforceable contract, promise, or agreement to make a political  
860 issues donation to influence the approval or defeat of any ballot proposition;

861 (iii) any transfer of funds received by a political issues committee from a reporting  
862 entity;

863 (iv) compensation paid by another reporting entity for personal services rendered  
864 without charge to a political issues committee; and

865 (v) goods or services provided to or for the benefit of a political issues committee at

866 less than fair market value.

867 (b) "Political issues contribution" does not include:

868 (i) services provided without compensation by individuals volunteering a portion or all  
869 of their time on behalf of a political issues committee; or

870 (ii) money lent to a political issues committee by a financial institution in the ordinary  
871 course of business.

872 (30) (a) "Political issues expenditure" means any of the following:

873 (i) any payment from political issues contributions made for the purpose of influencing  
874 the approval or the defeat of a statewide ballot proposition;

875 (ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for  
876 the purpose of influencing the approval or the defeat of a statewide ballot proposition;

877 (iii) an express, legally enforceable contract, promise, or agreement to make any  
878 political issues expenditure;

879 (iv) compensation paid by a reporting entity for personal services rendered by a person  
880 without charge to a political issues committee; or

881 (v) goods or services provided to or for the benefit of another reporting entity at less  
882 than fair market value.

883 (b) "Political issues expenditure" does not include:

884 (i) services provided without compensation by individuals volunteering a portion or all  
885 of their time on behalf of a political issues committee; or

886 (ii) money lent to a political issues committee by a financial institution in the ordinary  
887 course of business.

888 (31) "Political purposes" means an act done with the intent or in a way to influence or  
889 tend to influence, directly or indirectly, any person to refrain from voting or to vote for or  
890 against any candidate for public office at any caucus, political convention, primary, or election.

891 (32) "Primary election" means any regular primary election held under the election  
892 laws.

893 (33) "Public office" means the office of governor, lieutenant governor, state auditor,  
894 state treasurer, attorney general, state or local school board member, state senator, state  
895 representative, speaker of the House of Representatives, president of the Senate, and the leader,  
896 whip, and assistant whip of any party caucus in either house of the Legislature.

897 (34) (a) "Public service assistance" means the following when given or provided to an  
898 officeholder to defray the costs of functioning in a public office or aid the officeholder to  
899 communicate with the officeholder's constituents:

900 (i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of  
901 money or anything of value to an officeholder; or

902 (ii) goods or services provided at less than fair market value to or for the benefit of the  
903 officeholder.

904 (b) "Public service assistance" does not include:

905 (i) anything provided by the state;

906 (ii) services provided without compensation by individuals volunteering a portion or all  
907 of their time on behalf of an officeholder;

908 (iii) money lent to an officeholder by a financial institution in the ordinary course of  
909 business;

910 (iv) news coverage or any publication by the news media; or

911 (v) any article, story, or other coverage as part of any regular publication of any  
912 organization unless substantially all the publication is devoted to information about the  
913 officeholder.

914 (35) "Publicly identified class of individuals" means a group of 50 or more individuals  
915 sharing a common occupation, interest, or association that contribute to a political action  
916 committee or political issues committee and whose names can be obtained by contacting the  
917 political action committee or political issues committee upon whose financial report they are  
918 listed.

919 (36) "Receipts" means contributions and public service assistance.

920 (37) "Registered lobbyist" means a person registered under Title 36, Chapter 11,  
921 Lobbyist Disclosure and Regulation Act.

922 (38) "Registered political action committee" means any political action committee that  
923 is required by this chapter to file a statement of organization with the lieutenant governor's  
924 office.

925 (39) "Registered political issues committee" means any political issues committee that  
926 is required by this chapter to file a statement of organization with the lieutenant governor's  
927 office.

- 928 (40) "Registered political party" means an organization of voters that:  
929 (a) participated in the last regular general election and polled a total vote equal to 2%  
930 or more of the total votes cast for all candidates for the United States House of Representatives  
931 for any of its candidates for any office; or  
932 (b) has complied with the petition and organizing procedures of this chapter.
- 933 (41) "Report" means a verified financial statement.
- 934 (42) "Reporting entity" means a candidate, a candidate's personal campaign committee,  
935 an officeholder, and a party committee, a political action committee, and a political issues  
936 committee.
- 937 (43) "School board office" means the office of state school board or local school board.
- 938 (44) (a) "Source" means the person or entity that is the legal owner of the tangible or  
939 intangible asset that comprises the contribution.
- 940 (b) "Source" means, for political action committees and corporations, the political  
941 action committee and the corporation as entities, not the contributors to the political action  
942 committee or the owners or shareholders of the corporation.
- 943 (45) "State office" means the offices of governor, lieutenant governor, attorney general,  
944 state auditor, and state treasurer.
- 945 (46) "State office candidate" means a person who:  
946 (a) files a declaration of candidacy for a state office; or  
947 (b) receives contributions, makes expenditures, or gives consent for any other person to  
948 receive contributions or make expenditures to bring about the person's nomination or election  
949 to a state office.
- 950 (47) "Summary report" means the year end report containing the summary of a  
951 reporting entity's contributions and expenditures.
- 952 (48) "Supervisory board" means the individual or group of individuals that allocate  
953 expenditures from a political issues committee.
- 954 Section 20. Section **31A-5-401.1** is amended to read:  
955 **31A-5-401.1. Definitions.**  
956 As used in this Part [FV] 4:  
957 (1) "Voting members of mutuals" and "voting members" mean persons entitled to vote  
958 at annual or special meetings of the members of a mutual, as set forth in the articles of

959 incorporation or amendments to the articles.

960       (2) Voting members of mutuals and voting members do not necessarily include  
961 policyholders of the mutual, if the articles of incorporation or amendments [~~thereto~~] to the  
962 articles of incorporation so provide, and if the articles of incorporation or amendments have  
963 been approved by the commissioner after a hearing.

964       Section 21. Section **31A-7-201** is amended to read:

965       **31A-7-201. Organization, incorporation, and licensing.**

966       [~~Part H of~~] Chapter 5, Part 2, Organization of Corporations, governs the organization,  
967 incorporation, and licensing of nonprofit health service corporations with the following  
968 exceptions:

969       (1) Section 16-6a-201 applies in place of Section 31A-5-202.

970       (2) Sections 16-6a-401 and 31A-1-109 apply in place of Subsection 31A-5-203(2)(a).

971       (3) The last sentence of Subsection 31A-5-203(2)(e) does not apply.

972       Section 22. Section **31A-7-307** is amended to read:

973       **31A-7-307. Committees of directors.**

974       (1) If provided by the articles or bylaws of a corporation, the board of directors may, by  
975 a resolution adopted by a majority of the full board, designate one or more committees, each  
976 consisting of three or more directors, to serve at the pleasure of the board. The board may  
977 designate one or more directors as alternate members of any committee to substitute for any  
978 absent member at any meeting of the committee. The designation of a committee and  
979 delegation of authority to it does not relieve the board or any director of responsibility imposed  
980 upon it or him by law.

981       (2) (a) Corporations organized and operating under this chapter shall have an audit  
982 committee and a nominating committee.

983       (b) A majority of the members of the audit and nominating committees may not be  
984 insiders as defined under Subsection 31A-7-303(3).

985       (3) When the board is not in session, a committee may exercise the powers of the board  
986 in the management of the business and affairs of the corporation to the extent authorized in the  
987 resolution or in the articles or bylaws, except final action regarding:

988       (a) compensation or indemnification of any person who is a director, principal officer,  
989 or one of the three most highly paid employees, and any benefits or payments requiring



990 shareholder or policyholder approval;

991 (b) approval of any contract required to be approved by the board under Section  
992 31A-7-309 or of any other transaction in which a director has a material interest adverse to the  
993 corporation;

994 (c) amendment of the articles or bylaws;

995 (d) corporate reorganization under Part ~~[IV of this chapter]~~ 4, Reorganization;

996 (e) any other decision requiring shareholder or policyholder approval;

997 (f) amendment or repeal of any action previously taken by the full board which by its  
998 terms is not subject to amendment or repeal by a committee;

999 (g) dividends or other distributions to shareholders or policyholders, other than in the  
1000 routine implementation of policy determinations of the full board;

1001 (h) selection of principal officers; and

1002 (i) filling vacancies on the board or any committee created under Subsection (1) except  
1003 that the articles or bylaws may provide for temporary appointments to fill vacancies on the  
1004 board or any committee, the appointments to last no longer than the end of the next board  
1005 meeting.

1006 (4) Subsection 31A-5-412(4) applies to the subsequent review provided in corporations  
1007 organized and operating under this chapter.

1008 Section 23. Section **31A-8-103** is amended to read:

1009 **31A-8-103. Applicability to other provisions of law.**

1010 (1) (a) Except for exemptions specifically granted under this title, an organization is  
1011 subject to regulation under all of the provisions of this title.

1012 (b) Notwithstanding any provision of this title, an organization licensed under this  
1013 chapter:

1014 (i) is wholly exempt from:

1015 (A) Chapter 7, Nonprofit Health Service Insurance Corporations;

1016 (B) Chapter 9, Insurance Fraternal;

1017 (C) Chapter 10, Annuities;

1018 (D) Chapter 11, Motor Clubs;

1019 (E) Chapter 12, State Risk Management Fund;

1020 (F) Chapter 13, Employee Welfare Funds and Plans;

- 1021 (G) Chapter 19a, Utah Rate Regulation Act; and
- 1022 (H) Chapter 28, Guaranty Associations; and
- 1023 (ii) is not subject to:
- 1024 (A) Chapter 3, Department Funding, Fees, and Taxes, except for Part [H] 1;
- 1025 (B) Section 31A-4-107;
- 1026 (C) Chapter 5, Domestic Stock and Mutual Insurance Corporations, except for
- 1027 provisions specifically made applicable by this chapter;
- 1028 (D) Chapter 14, Foreign Insurers, except for provisions specifically made applicable by
- 1029 this chapter;
- 1030 (E) Chapter 17, Determination of Financial Condition, except:
- 1031 (I) Parts [H] 2 and [VH] 6; or
- 1032 (II) as made applicable by the commissioner by rule consistent with this chapter;
- 1033 (F) Chapter 18, Investments, except as made applicable by the commissioner by rule
- 1034 consistent with this chapter; and
- 1035 (G) Chapter 22, Contracts in Specific Lines, except for Parts [~~VI~~, ~~VH~~] 6, 7, and [~~XH~~]
- 1036 12.
- 1037 (2) The commissioner may by rule waive other specific provisions of this title that the
- 1038 commissioner considers inapplicable to health maintenance organizations or limited health
- 1039 plans, upon a finding that the waiver will not endanger the interests of:
- 1040 (a) enrollees;
- 1041 (b) investors; or
- 1042 (c) the public.
- 1043 (3) Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16,
- 1044 Chapter 10a, Utah Revised Business Corporation Act, do not apply to an organization except as
- 1045 specifically made applicable by:
- 1046 (a) this chapter;
- 1047 (b) a provision referenced under this chapter; or
- 1048 (c) a rule adopted by the commissioner to deal with corporate law issues of health
- 1049 maintenance organizations that are not settled under this chapter.
- 1050 (4) (a) Whenever in this chapter, Chapter 5, or Chapter 14 is made applicable to an
- 1051 organization, the application is:

1052 (i) of those provisions that apply to a mutual corporation if the organization is  
1053 nonprofit; and

1054 (ii) of those that apply to a stock corporation if the organization is for profit.

1055 (b) When Chapter 5 or 14 is made applicable to an organization under this chapter,  
1056 "mutual" means nonprofit organization.

1057 (5) Solicitation of enrollees by an organization is not a violation of any provision of  
1058 law relating to solicitation or advertising by health professionals if that solicitation is made in  
1059 accordance with:

1060 (a) this chapter; and

1061 (b) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and  
1062 Reinsurance Intermediaries.

1063 (6) This title does not prohibit any health maintenance organization from meeting the  
1064 requirements of any federal law that enables the health maintenance organization to:

1065 (a) receive federal funds; or

1066 (b) obtain or maintain federal qualification status.

1067 (7) Except as provided in Section 31A-8-501, an organization is exempt from statutes  
1068 in this title or department rules that restrict or limit the organization's freedom of choice in  
1069 contracting with or selecting health care providers, including Section 31A-22-618.

1070 (8) An organization is exempt from the assessment or payment of premium taxes  
1071 imposed by Sections 59-9-101 through 59-9-104.

1072 Section 24. Section **31A-8-214** is amended to read:

1073 **31A-8-214. Securities.**

1074 [~~Part III of~~] Chapter 5, Part 3, Securities of Domestic Insurance Corporations, applies to  
1075 securities of organizations, except that the amount "\$150,000" in Subsection 31A-5-304(1)  
1076 shall be read "one-half of the minimum capital required of the organization."

1077 Section 25. Section **31A-8-215** is amended to read:

1078 **31A-8-215. Management.**

1079 [~~Part IV of~~] Chapter 5, Part 4, Management of Insurance Corporations, applies to  
1080 organizations, except that for purposes of this chapter, Subsection 31A-5-412(3)(e) shall be  
1081 read: "corporate reorganizations under Section 31A-8-216."

1082 Section 26. Section **31A-8-301** is amended to read:

1083           **31A-8-301. Requirements for doing business in state.**

1084           (1) Except as provided in Section 31A-8-302, only corporations incorporated and  
1085 licensed under Part [~~H of this chapter~~] 2, Domestic Organizations, may do business in this state  
1086 as an organization.

1087           (2) To do business in this state as an organization, foreign corporations doing a similar  
1088 business in other states shall incorporate a subsidiary and license if under Part [~~H of this~~  
1089 ~~chapter~~] 2, Domestic Organizations, for its Utah business. Except as to Chapter 16, Insurance  
1090 Holding Companies, the laws applicable to domestic organizations apply only to the  
1091 organization and not to its foreign parent corporation.

1092           Section 27. Section **31A-8-402.7** is amended to read:

1093           **31A-8-402.7. Discontinuance and nonrenewal limitations.**

1094           (1) Subject to Section 31A-4-115, an insurer that elects to discontinue offering a health  
1095 benefit plan under Subsections 31A-8-402.3(3)(e) and 31A-8-402.5(3)(e) is prohibited from  
1096 writing new business:

1097           (a) in the market in this state for which the insurer discontinues or does not renew; and

1098           (b) for a period of five years beginning on the date of discontinuation of the last  
1099 coverage that is discontinued.

1100           (2) If an insurer is doing business in one established geographic service area of the  
1101 state, Sections 31A-8-402.3 and 31A-8-402.5 apply only to the insurer's operations in that  
1102 service area.

1103           (3) Notwithstanding whether Chapter 22, Part [~~VH~~] 7, Group Accident and Health  
1104 Insurance, requires a conversion policy be available for certain persons who are no longer  
1105 entitled to group coverage, an organization may not be required to provide a conversion policy  
1106 to a person residing outside of the organization's service area.

1107           (4) The commissioner may, by rule or order, define the scope of service area.

1108           Section 28. Section **31A-8-501** is amended to read:

1109           **31A-8-501. Access to health care providers.**

1110           (1) As used in this section:

1111           (a) "Class of health care provider" means a health care provider or a health care facility  
1112 regulated by the state within the same professional, trade, occupational, or certification  
1113 category established under Title 58, Occupations and Professions, or within the same facility

1114 licensure category established under Title 26, Chapter 21, Health Care Facility Licensing and  
1115 Inspection Act.

1116 (b) "Covered health care services" or "covered services" means health care services for  
1117 which an enrollee is entitled to receive under the terms of a health maintenance organization  
1118 contract.

1119 (c) "Credentialed staff member" means a health care provider with active staff  
1120 privileges at an independent hospital or federally qualified health center.

1121 (d) "Federally qualified health center" means as defined in the Social Security Act, 42  
1122 U.S.C. Sec. 1395[(x)]x.

1123 (e) "Independent hospital" means a general acute hospital that:

1124 (i) is licensed pursuant to Title 26, Chapter 21, Health Care Facility Licensing and  
1125 Inspection Act; and

1126 (ii) is controlled by a board of directors of which 51% or more reside in the county  
1127 where the hospital is located and:

1128 (A) the board of directors is ultimately responsible for the policy and financial  
1129 decisions of the hospital; or

1130 (B) the hospital is licensed for 60 or fewer beds and is not owned, in whole or in part,  
1131 by an entity that owns or controls a health maintenance organization if the hospital is a  
1132 contracting facility of the organization.

1133 (f) "Noncontracting provider" means an independent hospital, federally qualified health  
1134 center, or credentialed staff member who has not contracted with a health maintenance  
1135 organization to provide health care services to enrollees of the organization.

1136 (2) Except for a health maintenance organization which is under the common  
1137 ownership or control of an entity with a hospital located within ten paved road miles of an  
1138 independent hospital, a health maintenance organization shall pay for covered health care  
1139 services rendered to an enrollee by an independent hospital, a credentialed staff member at an  
1140 independent hospital, or a credentialed staff member at his local practice location if:

1141 (a) the enrollee:

1142 (i) lives or resides within 30 paved road miles of the independent hospital; or

1143 (ii) if Subsection (2)(a)(i) does not apply, lives or resides in closer proximity to the  
1144 independent hospital than a contracting hospital;

1145 (b) the independent hospital is located prior to December 31, 2000 in a county with a  
1146 population density of less than 100 people per square mile, or the independent hospital is  
1147 located in a county with a population density of less than 30 people per square mile; and

1148 (c) the enrollee has complied with the prior authorization and utilization review  
1149 requirements otherwise required by the health maintenance organization contract.

1150 (3) A health maintenance organization shall pay for covered health care services  
1151 rendered to an enrollee at a federally qualified health center if:

1152 (a) the enrollee:

1153 (i) lives or resides within 30 paved road miles of the federally qualified health center;

1154 or

1155 (ii) if Subsection (3)(a)(i) does not apply, lives or resides in closer proximity to the  
1156 federally qualified health center than a contracting provider;

1157 (b) the federally qualified health center is located in a county with a population density  
1158 of less than 30 people per square mile; and

1159 (c) the enrollee has complied with the prior authorization and utilization review  
1160 requirements otherwise required by the health maintenance organization contract.

1161 (4) (a) A health maintenance organization shall reimburse a noncontracting provider or  
1162 the enrollee for covered services rendered pursuant to Subsection (2) a like dollar amount as it  
1163 pays to contracting providers under a noncapitated arrangement for comparable services.

1164 (b) A health maintenance organization shall reimburse a federally qualified health  
1165 center or the enrollee for covered services rendered pursuant to Subsection (3) a like amount as  
1166 paid by the health maintenance organization under a noncapitated arrangement for comparable  
1167 services to a contracting provider in the same class of health care providers as the provider who  
1168 rendered the service.

1169 (5) A noncontracting provider may only refer an enrollee to another noncontracting  
1170 provider so as to obligate the enrollee's health maintenance organization to pay for the resulting  
1171 services if:

1172 (a) the noncontracting provider making the referral or the enrollee has received prior  
1173 authorization from the organization for the referral; or

1174 (b) the practice location of the noncontracting provider to whom the referral is made:

1175 (i) is located in a county with a population density of less than 25 people per square

1176 mile; and

1177 (ii) is within 30 paved road miles of:

1178 (A) the place where the enrollee lives or resides; or

1179 (B) the independent hospital or federally qualified health center at which the enrollee  
1180 may receive covered services pursuant to Subsection (2) or (3).

1181 (6) Notwithstanding this section, a health maintenance organization may contract  
1182 directly with an independent hospital, federally qualified health center, or credentialed staff  
1183 member.

1184 Section 29. Section **31A-11-104** is amended to read:

1185 **31A-11-104. Applicability of other portions of the Insurance Code.**

1186 (1) In addition to this chapter, motor clubs are subject to the applicable sections of:

1187 (a) Chapters 1, 2, 4, 16, 21, 22, 26, and 27[;];

1188 (b) Chapter 3, Part [~~I of Chapter 3;~~] 1;

1189 (c) ~~Chapter 23a, Parts [I, IV] 1, 4, and [V of Chapter 23a, Insurance Marketing =~~  
1190 ~~Licensing Producers, Consultants, and Reinsurance Intermediaries;]~~ 5; and

1191 (d) Section 31A-23a-207.

1192 (2) Sections 31A-14-204 and 31A-14-216 apply to nondomestic motor clubs.

1193 (3) Section 31A-5-401 applies to domestic motor clubs.

1194 (4) Sections 31A-5-105, 31A-5-106, and 31A-5-216 apply to both domestic and  
1195 nondomestic motor clubs.

1196 (5) Both domestic and nondomestic motor clubs are subject to the Insurance  
1197 Department fees under Section 31A-3-103. Other provisions of the Insurance Code apply to  
1198 motor clubs only as specifically provided in this chapter.

1199 Section 30. Section **31A-14-206** is amended to read:

1200 **31A-14-206. Commercially domiciled insurers.**

1201 (1) As used in this section, and except as to title insurers, the commissioner may  
1202 consider a foreign insurer to be "commercially domiciled" in this state if:

1203 (a) during the three immediately preceding calendar years, the foreign insurer wrote  
1204 more insurance premiums in this state than it wrote in its state of domicile during the same  
1205 period; or

1206 (b) during the same three-year period, the foreign insurer's gross premiums written in

1207 this state constituted 15% or more of the insurer's total gross premiums written in the United  
1208 States.

1209 (2) Subject to Subsection (3), an insurer determined by the commissioner to be  
1210 commercially domiciled in this state may be subjected to Chapters 16, 17, 18, 27, and Chapter  
1211 5, Parts [~~IV~~, ~~V~~] 4, 5, and [~~VI~~] 6 in the same manner and to the same extent as domestic  
1212 insurers. The commissioner shall, by order, notify any commercially domiciled insurer not  
1213 exempt under Subsection (3) of the extent to which the insurer is subject to the provisions  
1214 listed under this Subsection (2).

1215 (3) The commissioner may exempt from the provisions of this section any  
1216 commercially domiciled insurer if he determines that the insurer has assets physically located  
1217 in this state or an asset to liability ratio sufficient to justify the conclusion that there is no  
1218 reasonable danger that the operations or conduct of the business of the insurer could present a  
1219 danger of loss to Utah policyholders.

1220 (4) Subsection 31A-14-205(4) applies to the conflict of the laws of this state with the  
1221 laws of the insurer's domicile for foreign insurers, including commercially domiciled insurers,  
1222 under this section.

1223 (5) This section does not excuse or exempt any foreign insurer from complying with  
1224 the provisions under this title which are otherwise applicable to a foreign insurer.

1225 Section 31. Section **31A-14-214** is amended to read:

1226 **31A-14-214. Amendment to articles and notice of corporate reorganization.**

1227 Sections 16-10a-1001 through 16-10a-1004 apply when a foreign insurer amends its  
1228 articles of incorporation. If a foreign insurer plans to undergo any corporate reorganization of  
1229 the kinds dealt with in Chapter 5, Part [~~V~~] 5, Corporate Reorganization, the insurer shall notify  
1230 the commissioner in writing, at the same time that the first formal step of the statutory  
1231 procedure for achieving the reorganization is taken in the domiciliary jurisdiction or elsewhere.  
1232 The insurer shall provide the details required by the commissioner, whether by rule or order.

1233 Section 32. Section **31A-15-103** is amended to read:

1234 **31A-15-103. Surplus lines insurance -- Unauthorized insurers.**

1235 (1) Notwithstanding Section 31A-15-102, a foreign insurer that has not obtained a  
1236 certificate of authority to do business in this state under Section 31A-14-202 may negotiate for  
1237 and make insurance contracts with persons in this state and on risks located in this state,



1238 subject to the limitations and requirements of this section.

1239 (2) For contracts made under this section, the insurer may, in this state, inspect the  
1240 risks to be insured, collect premiums and adjust losses, and do all other acts reasonably  
1241 incidental to the contract, through employees or through independent contractors.

1242 (3) (a) Subsections (1) and (2) do not permit any person to solicit business in this state  
1243 on behalf of an insurer that has no certificate of authority.

1244 (b) Any insurance placed with a nonadmitted insurer shall be placed with a surplus  
1245 lines producer licensed under Chapter 23a, Insurance Marketing - Licensing Producers,  
1246 Consultants, and Reinsurance Intermediaries.

1247 (c) The commissioner may by rule prescribe how a surplus lines producer may:

1248 (i) pay or permit the payment, commission, or other remuneration on insurance placed  
1249 by the surplus lines producer under authority of the surplus lines producer's license to one  
1250 holding a license to act as an insurance producer; and

1251 (ii) advertise the availability of the surplus lines producer's services in procuring, on  
1252 behalf of persons seeking insurance, contracts with nonadmitted insurers.

1253 (4) For contracts made under this section, nonadmitted insurers are subject to Sections  
1254 31A-23a-402 and 31A-23a-403 and the rules adopted under those sections.

1255 (5) A nonadmitted insurer may not issue workers' compensation insurance coverage to  
1256 employers located in this state, except for stop loss coverages issued to employers securing  
1257 workers' compensation under Subsection 34A-2-201(3).

1258 (6) (a) The commissioner may by rule prohibit making contracts under Subsection (1)  
1259 for a specified class of insurance if authorized insurers provide an established market for the  
1260 class in this state that is adequate and reasonably competitive.

1261 (b) The commissioner may by rule place restrictions and limitations on and create  
1262 special procedures for making contracts under Subsection (1) for a specified class of insurance  
1263 if there have been abuses of placements in the class or if the policyholders in the class, because  
1264 of limited financial resources, business experience, or knowledge, cannot protect their own  
1265 interests adequately.

1266 (c) The commissioner may prohibit an individual insurer from making any contract  
1267 under Subsection (1) and all insurance producers from dealing with the insurer if:

1268 (i) the insurer has willfully violated this section, Section 31A-4-102, 31A-23a-402, or

1269 31A-26-303, or any rule adopted under any of these sections;

1270 (ii) the insurer has failed to pay the fees and taxes specified under Section 31A-3-301;

1271 or

1272 (iii) the commissioner has reason to believe that the insurer is in an unsound condition  
1273 or is operated in a fraudulent, dishonest, or incompetent manner or in violation of the law of its  
1274 domicile.

1275 (d) (i) The commissioner may issue lists of unauthorized foreign insurers whose  
1276 solidity the commissioner doubts, or whose practices the commissioner considers  
1277 objectionable.

1278 (ii) The commissioner shall issue lists of unauthorized foreign insurers the  
1279 commissioner considers to be reliable and solid.

1280 (iii) In addition to the lists described in Subsections (6)(d)(i) and (ii), the commissioner  
1281 may issue other relevant evaluations of unauthorized insurers.

1282 (iv) An action may not lie against the commissioner or any employee of the department  
1283 for any written or oral communication made in, or in connection with the issuance of, the lists  
1284 or evaluations described in this Subsection (6)(d).

1285 (e) A foreign unauthorized insurer shall be listed on the commissioner's "reliable" list  
1286 only if the unauthorized insurer:

1287 (i) has delivered a request to the commissioner to be on the list;

1288 (ii) has established satisfactory evidence of good reputation and financial integrity;

1289 (iii) has delivered to the commissioner a copy of its current annual statement certified  
1290 by the insurer and continues each subsequent year to file its annual statements with the  
1291 commissioner within 60 days of its filing with the insurance regulatory authority where it is  
1292 domiciled;

1293 (iv) (A) is in substantial compliance with the solvency standards in Chapter 17, Part  
1294 [VI] 6, Risk-Based Capital, or maintains capital and surplus of at least \$15,000,000, whichever  
1295 is greater, and maintains in the United States an irrevocable trust fund in either a national bank  
1296 or a member of the Federal Reserve System, or maintains a deposit meeting the statutory  
1297 deposit requirements for insurers in the state where it is made, which trust fund or deposit:

1298 (I) shall be in an amount not less than \$2,500,000 for the protection of all of the  
1299 insurer's policyholders in the United States;

1300 (II) may consist of cash, securities, or investments of substantially the same character  
1301 and quality as those which are "qualified assets" under Section 31A-17-201; and

1302 (III) may include as part of the trust arrangement a letter of credit that qualifies as  
1303 acceptable security under Subsection 31A-17-404(3)(c)(iii); or

1304 (B) in the case of any "Lloyd's" or other similar incorporated or unincorporated group  
1305 of alien individual insurers, maintains a trust fund that:

1306 (I) shall be in an amount not less than \$50,000,000 as security to its full amount for all  
1307 policyholders and creditors in the United States of each member of the group;

1308 (II) may consist of cash, securities, or investments of substantially the same character  
1309 and quality as those which are "qualified assets" under Section 31A-17-201; and

1310 (III) may include as part of this trust arrangement a letter of credit that qualifies as  
1311 acceptable security under Subsection 31A-17-404(3)(c)(iii); and

1312 (v) for an alien insurer not domiciled in the United States or a territory of the United  
1313 States, is listed on the Quarterly Listing of Alien Insurers maintained by the National  
1314 Association of Insurance Commissioners International Insurers Department.

1315 (7) A surplus lines producer may not, either knowingly or without reasonable  
1316 investigation of the financial condition and general reputation of the insurer, place insurance  
1317 under this section with financially unsound insurers or with insurers engaging in unfair  
1318 practices, or with otherwise substandard insurers, unless the producer gives the applicant notice  
1319 in writing of the known deficiencies of the insurer or the limitations on his investigation, and  
1320 explains the need to place the business with that insurer. A copy of this notice shall be kept in  
1321 the office of the producer for at least five years. To be financially sound, an insurer shall  
1322 satisfy standards that are comparable to those applied under the laws of this state to authorized  
1323 insurers. Insurers on the "doubtful or objectionable" list under Subsection (6)(d) and insurers  
1324 not on the commissioner's "reliable" list under Subsection (6)(e) are presumed substandard.

1325 (8) A policy issued under this section shall include a description of the subject of the  
1326 insurance and indicate the coverage, conditions, and term of the insurance, the premium  
1327 charged and premium taxes to be collected from the policyholder, and the name and address of  
1328 the policyholder and insurer. If the direct risk is assumed by more than one insurer, the policy  
1329 shall state the names and addresses of all insurers and the portion of the entire direct risk each  
1330 has assumed. All policies issued under the authority of this section shall have attached or

1331 affixed to the policy the following statement: "The insurer issuing this policy does not hold a  
1332 certificate of authority to do business in this state and thus is not fully subject to regulation by  
1333 the Utah insurance commissioner. This policy receives no protection from any of the guaranty  
1334 associations created under Title 31A, Chapter 28."

1335 (9) Upon placing a new or renewal coverage under this section, the surplus lines  
1336 producer shall promptly deliver to the policyholder or his agent evidence of the insurance  
1337 consisting either of the policy as issued by the insurer or, if the policy is not then available, a  
1338 certificate, cover note, or other confirmation of insurance complying with Subsection (8).

1339 (10) If the commissioner finds it necessary to protect the interests of insureds and the  
1340 public in this state, the commissioner may by rule subject policies issued under this section to  
1341 as much of the regulation provided by this title as is required for comparable policies written by  
1342 authorized foreign insurers.

1343 (11) (a) Each surplus lines transaction in this state shall be examined to determine  
1344 whether it complies with:

1345 (i) the surplus lines tax levied under Chapter 3;

1346 (ii) the solicitation limitations of Subsection (3);

1347 (iii) the requirement of Subsection (3) that placement be through a surplus lines  
1348 producer;

1349 (iv) placement limitations imposed under Subsections (6)(a), (b), and (c); and

1350 (v) the policy form requirements of Subsections (8) and (10).

1351 (b) The examination described in Subsection (11)(a) shall take place as soon as  
1352 practicable after the transaction. The surplus lines producer shall submit to the examiner  
1353 information necessary to conduct the examination within a period specified by rule.

1354 (c) The examination described in Subsection (11)(a) may be conducted by the  
1355 commissioner or by an advisory organization created under Section 31A-15-111 and authorized  
1356 by the commissioner to conduct these examinations. The commissioner is not required to  
1357 authorize any additional advisory organizations to conduct examinations under this Subsection  
1358 (11)(c). The commissioner's authorization of one or more advisory organizations to act as  
1359 examiners under this Subsection (11)(c) shall be by rule. In addition, the authorization shall be  
1360 evidenced by a contract, on a form provided by the commissioner, between the authorized  
1361 advisory organization and the department.

1362 (d) The person conducting the examination described in Subsection (11)(a) shall  
1363 collect a stamping fee of an amount not to exceed 1% of the policy premium payable in  
1364 connection with the transaction. Stamping fees collected by the commissioner shall be  
1365 deposited in the General Fund. The commissioner shall establish this fee by rule. Stamping  
1366 fees collected by an advisory organization are the property of the advisory organization to be  
1367 used in paying the expenses of the advisory organization. Liability for paying the stamping fee  
1368 is as required under Subsection 31A-3-303(1) for taxes imposed under Section 31A-3-301.  
1369 The commissioner shall adopt a rule dealing with the payment of stamping fees. If stamping  
1370 fees are not paid when due, the commissioner or advisory organization may impose a penalty  
1371 of 25% of the fee due, plus 1-1/2% per month from the time of default until full payment of the  
1372 fee. Fees relative to policies covering risks located partially in this state shall be allocated in  
1373 the same manner as under Subsection 31A-3-303(4).

1374 (e) The commissioner, representatives of the department, advisory organizations,  
1375 representatives and members of advisory organizations, authorized insurers, and surplus lines  
1376 insurers are not liable for damages on account of statements, comments, or recommendations  
1377 made in good faith in connection with their duties under this Subsection (11)(e) or under  
1378 Section 31A-15-111.

1379 (f) Examinations conducted under this Subsection (11) and the documents and  
1380 materials related to the examinations are confidential.

1381 Section 33. Section **31A-18-106** is amended to read:

1382 **31A-18-106. Investment limitations generally applicable.**

1383 (1) The investment limitations listed in Subsections (1)(a) through (l) apply to each  
1384 insurer.

1385 (a) (i) Except as provided in Subsection (1)(a)(ii), for investments authorized under  
1386 Subsection 31A-18-105(1) that are not amortizable under applicable valuation rules, the  
1387 limitation is 5% of assets.

1388 (ii) The limitation of Subsection (1)(a)(i) and the limitation of Subsection (2) do not  
1389 apply to demand deposits and certificates of deposit in solvent banks and savings and loan  
1390 institutions to the extent they are insured by a federal deposit insurance agency.

1391 (b) For investments authorized under Subsection 31A-18-105(2), the limitation is 10%  
1392 of assets.

1393 (c) For investments authorized under Subsection 31A-18-105(3), the limitation is 50%  
1394 of assets.

1395 (d) For investments authorized under Subsection 31A-18-105(4), that are considered to  
1396 be investments in kinds of securities or evidences of debt pledged, those investments are  
1397 subject to the class limitations applicable to the pledged securities or evidences of debt.

1398 (e) For investments authorized under Subsection 31A-18-105(5), the limitation is 35%  
1399 of assets.

1400 (f) For investments authorized under Subsection 31A-18-105(6), the limitation is:

1401 (i) 20% of assets for life insurers; and

1402 (ii) 50% of assets for nonlife insurers.

1403 (g) For investments authorized under Subsection 31A-18-105(7), the limitation is 5%  
1404 of assets, except as to insurers organized and operating under Chapter 7, Nonprofit Health  
1405 Service Insurance Corporations, in which case the limitation is 25% of assets.

1406 (h) For investments authorized under Subsection 31A-18-105(8), the limitation is 20%  
1407 of assets inclusive of home office and branch office properties, except as to insurers organized  
1408 and operating under Chapter 7, Nonprofit Health Service Insurance Corporations, in which case  
1409 the limitation is 35% of assets, inclusive of home office and branch office properties.

1410 (i) For investments authorized under Subsection 31A-18-105(10), the limitation is 1%  
1411 of assets.

1412 (j) For investments authorized under Subsection 31A-18-105(11), the limitation is the  
1413 greater of that permitted or required for compliance with Section 31A-18-103.

1414 (k) Except as provided in Subsection (1)(l), an insurer's investments in subsidiaries is  
1415 limited to 50% of the insurer's total adjusted capital. Investments by an insurer in its  
1416 subsidiaries includes:

1417 (i) the insurer's loans, advances, and contributions to its subsidiaries; and

1418 (ii) the insurer's holding of bonds, notes, and stocks of its subsidiaries are included.

1419 (l) Under a plan of merger approved by the commissioner, the commissioner may  
1420 allow an insurer any portion of its assets invested in an insurance subsidiary. The approved  
1421 plan of merger shall require the acquiring insurer to conform its accounting for investments in  
1422 subsidiaries to Subsection (1)(k) within a specified period that may not exceed five years.

1423 (2) The limits on investments listed in Subsections (2)(a) through (e) apply to each

1424 insurer.

1425 (a) For all investments in a single entity, its affiliates, and subsidiaries, the limitation is  
1426 10% of assets, except that the limit imposed by this Subsection (2)(a) does not apply to:

1427 (i) investments in the government of the United States or its agencies;

1428 (ii) investments guaranteed by the government of the United States; or

1429 (iii) investments in the insurer's insurance subsidiaries.

1430 (b) Investments authorized by Subsection 31A-18-105(3) shall comply with the  
1431 requirements listed in this Subsection (2)(b).

1432 (i) (A) Except as provided in this Subsection (2)(b)(i), the amount of any loan secured  
1433 by a mortgage or deed of trust may not exceed 80% of the value of the real estate interest  
1434 mortgaged, unless the excess over 80%:

1435 (I) is insured or guaranteed by the United States, any state of the United States, any  
1436 instrumentality, agency, or political subdivision of the United States, any of its states, or a  
1437 combination of any of these; or

1438 (II) insured by an insurer approved by the commissioner and qualified to insure that  
1439 type of risk in this state.

1440 (B) Mortgage loans representing purchase money mortgages acquired from the sale of  
1441 real estate are not subject to the limitation of Subsection (2)(b)(i)(A).

1442 (ii) Subject to Subsection (2)(b)(v), loans or evidences of debt secured by real estate  
1443 may only be secured by unencumbered real property, or an unencumbered interest in real  
1444 property that is located in the United States.

1445 (iii) Evidence of debt secured by first mortgages or deeds of trust upon leasehold  
1446 estates shall require that:

1447 (A) the leasehold estate exceed the maturity of the loan by not less than 10% of the  
1448 lease term;

1449 (B) the real estate not be otherwise encumbered; and

1450 (C) the mortgagee is entitled to be subrogated to all rights under the leasehold.

1451 (iv) Subject to Subsection (2)(b)(v):

1452 (A) participation in any mortgage loan must:

1453 (I) be senior to other participants; and

1454 (II) give the holder substantially the rights of a first mortgagee; or

1455 (B) the interest of the insurer in the evidence of indebtedness must be of equal priority,  
1456 to the extent of the interest, with other interests in the real property.

1457 (v) A fee simple or leasehold real estate or any interest in either of them is not  
1458 considered to be encumbered within the meaning of this chapter by reason of any prior  
1459 mortgage or trust deed held or assumed by the insurer as a lien on the property, if:

1460 (A) the total of the mortgages or trust deeds held does not exceed 70% of the value of  
1461 the property; and

1462 (B) the security created by the prior mortgage or trust deed is a first lien.

1463 (c) Loans permitted under Subsection 31A-18-105(4) may not exceed 75% of the  
1464 market value of the collateral pledged, except that loans upon the pledge of United States  
1465 government bonds may be equal to the market values of the pledge.

1466 (d) For an equity interest in a single real estate property authorized under Subsection  
1467 31A-18-105(8), the limitation is 5% of assets.

1468 (e) Investments authorized under Subsection 31A-18-105(10) shall be in connection  
1469 with potential changes in the value of specifically identified:

1470 (i) assets which the insurer owns; or

1471 (ii) liabilities which the insurer has incurred.

1472 (3) The restrictions on investments listed in Subsections (3)(a) and (b) apply to each  
1473 insurer.

1474 (a) Except for financial futures contracts and real property acquired and occupied by  
1475 the insurer for home and branch office purposes, a security or other investment is not eligible  
1476 for purchase or acquisition under this chapter unless it is:

1477 (i) interest bearing or income paying; and

1478 (ii) not then in default.

1479 (b) A security is not eligible for purchase at a price above its market value.

1480 (4) Computation of percentage limitations under this section:

1481 (a) is based only upon the insurer's total qualified invested assets described in Section  
1482 31A-18-105 and this section, as these assets are valued under Section 31A-17-401; and

1483 (b) excludes investments permitted under Section 31A-18-108 and Subsections  
1484 31A-17-203(2) and (3).

1485 (5) An insurer may not make an investment that, because the investment does not



1486 conform to Section 31A-18-105 and this section, has the result of rendering the insurer, under  
1487 Chapter 17, Part ~~[VI]~~ 6, Risk-Based Capital, subject to proceedings under Chapter 27, Insurers  
1488 Rehabilitation and Liquidation.

1489 (6) A pattern of persistent deviation from the investment diversification standards set  
1490 forth in Section 31A-18-105 and this section may be grounds for a finding that the person or  
1491 persons with authority to make the insurer's investment decisions are "incompetent" as used in  
1492 Subsection 31A-5-410(3).

1493 (7) Section 77r-1 of the Secondary Mortgage Market Enhancement Act of 1984 does  
1494 not apply to the purchase, holding, investment, or valuation limitations of assets of insurance  
1495 companies subject to this chapter.

1496 Section 34. Section **31A-19a-403** is amended to read:

1497 **31A-19a-403. Definitions.**

1498 As used in this part:

1499 (1) "Uniform classification plan," in addition to the definition of "classification  
1500 system" in Section [~~31A-19a-201~~] 31A-19a-102, means a plan:

1501 (a) that is consistent between all insurers of classification codes and descriptions; and

1502 (b) by which like workers' compensation exposures are grouped for the purposes of  
1503 underwriting, rating, and statistical reporting.

1504 (2) "Uniform experience rating plan" means a plan that is consistent between all  
1505 insurers for experience rating entities insured for workers' compensation insurance.

1506 (3) "Uniform statistical plan" means a plan that is consistent between all insurers that is  
1507 used for the reporting of workers' compensation insurance statistical data.

1508 Section 35. Section **31A-21-404** is amended to read:

1509 **31A-21-404. Out-of-state insurers.**

1510 Any insurer extending mass marketed life or accident and health insurance under a  
1511 group or blanket policy issued outside of this state to residents of this state shall, with respect  
1512 to the mass marketed life or accident and health insurance policy:

1513 (1) comply with:

1514 (a) Sections 31A-23a-402 and 31A-23a-403; and [~~Part III of~~]

1515 (b) Chapter 26, Part 3, Claim Practices; and

1516 (2) upon the commissioner's request, deliver to the commissioner a copy of any mass

1517 marketed life or accident and health insurance policy, certificates issued under these policies,  
1518 and advertising material used in this state in connection with the policy.

1519 Section 36. Section **31A-22-101** is amended to read:

1520 **31A-22-101. Scope of part.**

1521 This Part [F] 1 applies to those suretyship obligations that are subject to Chapter 21 and  
1522 this chapter under Section 31A-21-101.

1523 Section 37. Section **31A-22-303** is amended to read:

1524 **31A-22-303. Motor vehicle liability coverage.**

1525 (1) (a) In addition to complying with the requirements of Chapter 21, Insurance  
1526 Contracts in General, and [~~Part H of~~] Chapter 22, Part 2, Liability Insurance in General, a  
1527 policy of motor vehicle liability coverage under Subsection 31A-22-302(1)(a) shall:

1528 (i) name the motor vehicle owner or operator in whose name the policy was purchased,  
1529 state that named insured's address, the coverage afforded, the premium charged, the policy  
1530 period, and the limits of liability;

1531 (ii) (A) if it is an owner's policy, designate by appropriate reference all the motor  
1532 vehicles on which coverage is granted, insure the person named in the policy, insure any other  
1533 person using any named motor vehicle with the express or implied permission of the named  
1534 insured, and, except as provided in Subsection (7), insure any person included in Subsection  
1535 (1)(a)(iii) against loss from the liability imposed by law for damages arising out of the  
1536 ownership, maintenance, or use of these motor vehicles within the United States and Canada,  
1537 subject to limits exclusive of interest and costs, for each motor vehicle, in amounts not less  
1538 than the minimum limits specified under Section 31A-22-304; or

1539 (B) if it is an operator's policy, insure the person named as insured against loss from  
1540 the liability imposed upon him by law for damages arising out of the insured's use of any motor  
1541 vehicle not owned by him, within the same territorial limits and with the same limits of liability  
1542 as in an owner's policy under Subsection (1)(ii)(A);

1543 (iii) except as provided in Subsection (7), insure persons related to the named insured  
1544 by blood, marriage, adoption, or guardianship who are residents of the named insured's  
1545 household, including those who usually make their home in the same household but  
1546 temporarily live elsewhere, to the same extent as the named insured and the available coverage  
1547 of the policy may not be reduced to the persons described in this Subsection (1)(a)(iii) because:

1548 (A) a permissive user driving a covered motor vehicle is at fault in causing an accident;  
1549 or

1550 (B) the named insured or any of the persons described in this Subsection (1)(a)(iii)  
1551 driving a covered motor vehicle is at fault in causing an accident; and

1552 (iv) cover damages or injury resulting from a covered driver of a motor vehicle who is  
1553 stricken by an unforeseeable paralysis, seizure, or other unconscious condition and who is not  
1554 reasonably aware that paralysis, seizure, or other unconscious condition is about to occur to the  
1555 extent that a person of ordinary prudence would not attempt to continue driving.

1556 (b) The driver's liability under Subsection (1)(a)(iv) is limited to the insurance  
1557 coverage.

1558 (2) (a) A policy containing motor vehicle liability coverage under Subsection  
1559 31A-22-302(1)(a) may:

1560 (i) provide for the prorating of the insurance under that policy with other valid and  
1561 collectible insurance;

1562 (ii) grant any lawful coverage in addition to the required motor vehicle liability  
1563 coverage;

1564 (iii) if the policy is issued to a person other than a motor vehicle business, limit the  
1565 coverage afforded to a motor vehicle business or its officers, agents, or employees to the  
1566 minimum limits under Section 31A-22-304, and to those instances when there is no other valid  
1567 and collectible insurance with at least those limits, whether the other insurance is primary,  
1568 excess, or contingent; and

1569 (iv) if issued to a motor vehicle business, restrict coverage afforded to anyone other  
1570 than the motor vehicle business or its officers, agents, or employees to the minimum limits  
1571 under Section 31A-22-304, and to those instances when there is no other valid and collectible  
1572 insurance with at least those limits, whether the other insurance is primary, excess, or  
1573 contingent.

1574 (b) (i) The liability insurance coverage of a permissive user of a motor vehicle owned  
1575 by a motor vehicle business shall be primary coverage.

1576 (ii) The liability insurance coverage of a motor vehicle business shall be secondary to  
1577 the liability insurance coverage of a permissive user as specified under Subsection (2)(b)(i).

1578 (3) Motor vehicle liability coverage need not insure any liability:

1579 (a) under any workers' compensation law under Title 34A, Utah Labor Code;

1580 (b) resulting from bodily injury to or death of an employee of the named insured, other  
1581 than a domestic employee, while engaged in the employment of the insured, or while engaged  
1582 in the operation, maintenance, or repair of a designated vehicle; or

1583 (c) resulting from damage to property owned by, rented to, bailed to, or transported by  
1584 the insured.

1585 (4) An insurance carrier providing motor vehicle liability coverage has the right to  
1586 settle any claim covered by the policy, and if the settlement is made in good faith, the amount  
1587 of the settlement is deductible from the limits of liability specified under Section 31A-22-304.

1588 (5) A policy containing motor vehicle liability coverage imposes on the insurer the  
1589 duty to defend, in good faith, any person insured under the policy against any claim or suit  
1590 seeking damages which would be payable under the policy.

1591 (6) (a) If a policy containing motor vehicle liability coverage provides an insurer with  
1592 the defense of lack of cooperation on the part of the insured, that defense is not effective  
1593 against a third person making a claim against the insurer, unless there was collusion between  
1594 the third person and the insured.

1595 (b) If the defense of lack of cooperation is not effective against the claimant, after  
1596 payment, the insurer is subrogated to the injured person's claim against the insured to the extent  
1597 of the payment and is entitled to reimbursement by the insured after the injured third person has  
1598 been made whole with respect to the claim against the insured.

1599 (7) A policy of motor vehicle liability coverage under Subsection 31A-22-302(1) may  
1600 specifically exclude from coverage a person who is a resident of the named insured's  
1601 household, including a person who usually makes his home in the same household but  
1602 temporarily lives elsewhere, if:

1603 (a) at the time of the proposed exclusion, each person excluded from coverage satisfies  
1604 the owner's or operator's security requirement of Section 41-12a-301, independently of the  
1605 named insured's proof of owner's or operator's security;

1606 (b) the named insured and the person excluded from coverage each provide written  
1607 consent to the exclusion; and

1608 (c) the insurer includes the name of each person excluded from coverage in the  
1609 evidence of insurance provided to an additional insured or loss payee.

1610 (8) A policy of motor vehicle liability coverage may limit coverage to the policy  
1611 minimum limits under Section 31A-22-304 if the insured motor vehicle is operated by a person  
1612 who has consumed any alcohol or any illegal drug or illegal substance if the policy or a  
1613 specifically reduced premium was extended to the insured upon express written declaration  
1614 executed by the insured that the insured motor vehicle would not be so operated.

1615 (9) (a) When a claim is brought exclusively by a named insured or a person described  
1616 in Subsection (1)(a)(iii) and asserted exclusively against a named insured or an individual  
1617 described in Subsection (1)(a)(iii), the claimant may elect to resolve the claim:

1618 (i) by submitting the claim to binding arbitration; or  
1619 (ii) through litigation.

1620 (b) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii),  
1621 the claimant may not elect to resolve the claim through binding arbitration under this section  
1622 without the written consent of both parties and the defendant's liability insurer.

1623 (c) (i) Unless otherwise agreed on in writing by the parties, a claim that is submitted to  
1624 binding arbitration under Subsection (9)(a)(i) shall be resolved by a panel of three arbitrators.

1625 (ii) Unless otherwise agreed on in writing by the parties, each party shall select an  
1626 arbitrator. The arbitrators selected by the parties shall select a third arbitrator.

1627 (d) Unless otherwise agreed on in writing by the parties, each party will pay the fees  
1628 and costs of the arbitrator that party selects. Both parties shall share equally the fees and costs  
1629 of the third arbitrator.

1630 (e) Except as otherwise provided in this section, an arbitration procedure conducted  
1631 under this section shall be governed by Title 78, Chapter 31a, Utah Uniform Arbitration Act,  
1632 unless otherwise agreed on in writing by the parties.

1633 (f) (i) Discovery shall be conducted in accordance with Rules 26b through 36, Utah  
1634 Rules of Civil Procedure.

1635 (ii) All issues of discovery shall be resolved by the arbitration panel.

1636 (g) A written decision of two of the three arbitrators shall constitute a final decision of  
1637 the arbitration panel.

1638 (h) Prior to the rendering of the arbitration award:

1639 (i) the existence of a liability insurance policy may be disclosed to the arbitration  
1640 panel; and

1641 (ii) the amount of all applicable liability insurance policy limits may not be disclosed to  
1642 the arbitration panel.

1643 (i) The amount of the arbitration award may not exceed the liability limits of all the  
1644 defendant's applicable liability insurance policies, including applicable liability umbrella  
1645 policies. If the initial arbitration award exceeds the liability limits of all applicable liability  
1646 insurance policies, the arbitration award shall be reduced to an amount equal to the liability  
1647 limits of all applicable liability insurance policies.

1648 (j) The arbitration award is the final resolution of all claims between the parties unless  
1649 the award was procured by corruption, fraud, or other undue means.

1650 (k) If the arbitration panel finds that the action was not brought, pursued, or defended  
1651 in good faith, the arbitration panel may award reasonable fees and costs against the party that  
1652 failed to bring, pursue, or defend the claim in good faith.

1653 (l) Nothing in this section is intended to limit any claim under any other portion of an  
1654 applicable insurance policy.

1655 Section 38. Section **31A-22-315** is amended to read:

1656 **31A-22-315. Motor vehicle insurance reporting -- Penalty.**

1657 (1) (a) Each insurer that issues a policy that includes motor vehicle liability coverage,  
1658 uninsured motorist coverage, underinsured motorist coverage, or personal injury coverage  
1659 under this part shall before the seventh day of each calendar month provide to the Department  
1660 of Public Safety's designated agent selected in accordance with Title 41, Chapter 12a, Part  
1661 ~~VIII~~ §, Uninsured Motorist Identification Database Program, a record of each motor vehicle  
1662 insurance policy in effect for vehicles registered or garaged in Utah as of the previous month  
1663 that was issued by the insurer.

1664 (b) This Subsection (1) does not preclude more frequent reporting.

1665 (2) The record shall include:

1666 (a) the name, date of birth, and driver license number of each insured owner or  
1667 operator, and the address of the named insured;

1668 (b) the make, year, and vehicle identification number of each insured vehicle; and

1669 (c) the policy number, effective date, and expiration date of each policy.

1670 (3) Each insurer shall provide this information on magnetic tape or in another form the  
1671 Department of Public Safety's designated agent agrees to accept.

1672 (4) (a) The commissioner may, following procedures set forth in Title 63, Chapter 46b,  
1673 Administrative Procedures Act, assess a fine against an insurer of up to \$250 for each day the  
1674 insurer fails to comply with this section.

1675 (b) If an insurer shows that the failure to comply with this section was inadvertent,  
1676 accidental, or the result of excusable neglect, the commissioner shall excuse the fine.

1677 Section 39. Section **31A-22-400** is amended to read:

1678 **31A-22-400. Scope of part.**

1679 This Part [FV] 4 applies to all life insurance policies and contracts, including:

- 1680 (1) an annuity contract;  
1681 (2) a credit life contract;  
1682 (3) a franchise contract;  
1683 (4) a group contract; and  
1684 (5) a blanket contract.

1685 Section 40. Section **31A-22-701** is amended to read:

1686 **31A-22-701. Groups eligible for group or blanket insurance.**

1687 (1) A group or blanket accident and health insurance policy may be issued to:

1688 (a) any group to which a group life insurance policy may be issued under Sections  
1689 31A-22-502 through 31A-22-507;

1690 (b) a policy issued pursuant to a conversion privilege under this Part [VH] 7; or

1691 (c) a group specifically authorized by the commissioner upon a finding that:

1692 (i) authorization is not contrary to the public interest;

1693 (ii) the proposed group is actuarially sound;

1694 (iii) formation of the proposed group may result in economies of scale in

1695 administrative, marketing, and brokerage costs; and

1696 (iv) the health insurance policy, certificate, or other indicia of coverage that will be  
1697 offered to the proposed group is substantially equivalent to policies that are otherwise available  
1698 to similar groups.

1699 (2) Blanket policies may also be issued to:

1700 (a) any common carrier or any operator, owner, or lessee of a means of transportation,  
1701 as policyholder, covering persons who may become passengers as defined by reference to their  
1702 travel status;

1703 (b) an employer, as policyholder, covering any group of employees, dependents, or  
1704 guests, as defined by reference to specified hazards incident to any activities of the  
1705 policyholder;

1706 (c) an institution of learning, including a school district, school jurisdictional units, or  
1707 the head, principal, or governing board of any of those units, as policyholder, covering  
1708 students, teachers, or employees;

1709 (d) any religious, charitable, recreational, educational, or civic organization, or branch  
1710 of those organizations, as policyholder, covering any group of members or participants as  
1711 defined by reference to specified hazards incident to the activities sponsored or supervised by  
1712 the policyholder;

1713 (e) a sports team, camp, or sponsor of the team or camp, as policyholder, covering  
1714 members, campers, employees, officials, or supervisors;

1715 (f) any volunteer fire department, first aid, civil defense, or other similar volunteer  
1716 organization, as policyholder, covering any group of members or participants as defined by  
1717 reference to specified hazards incident to activities sponsored, supervised, or participated in by  
1718 the policyholder;

1719 (g) a newspaper or other publisher, as policyholder, covering its carriers;

1720 (h) an association, including a labor union, which has a constitution and bylaws and  
1721 which has been organized in good faith for purposes other than that of obtaining insurance, as  
1722 policyholder, covering any group of members or participants as defined by reference to  
1723 specified hazards incident to the activities or operations sponsored or supervised by the  
1724 policyholder;

1725 (i) a health insurance purchasing association organized and controlled solely by  
1726 participating employers as defined in Section 31A-34-103; and

1727 (j) any other class of risks which, in the judgment of the commissioner, may be  
1728 properly eligible for blanket accident and health insurance.

1729 (3) The judgment of the commissioner may be exercised on the basis of:

1730 (a) individual risks;

1731 (b) class of risks; or

1732 (c) both Subsections (3)(a) and (b).

1733 Section 41. Section **31A-22-802** is amended to read:



1734 **31A-22-802. Definitions.**1735 As used in this Part [VHH] 8:1736 (1) "Credit accident and health insurance" means insurance on a debtor to provide  
1737 indemnity for payments coming due on a specific loan or other credit transaction while the  
1738 debtor is disabled.1739 (2) "Credit life insurance" means life insurance on the life of a debtor in connection  
1740 with a specific loan or credit transaction.1741 (3) "Credit transaction" means any transaction under which the payment for money  
1742 loaned or for goods, services, or properties sold or leased is to be made on future dates.1743 (4) "Creditor" means the lender of money or the vendor or lessor of goods, services, or  
1744 property, for which payment is arranged through a credit transaction, or any successor to the  
1745 right, title, or interest of any lender or vendor.1746 (5) "Debtor" means a borrower of money or a purchaser, including a lessee under a  
1747 lease intended as security, of goods, services, or property, for which payment is arranged  
1748 through a credit transaction.1749 (6) "Indebtedness" means the total amount payable by a debtor to a creditor in  
1750 connection with a credit transaction, including principal finance charges and interest.1751 (7) "Net indebtedness" means the total amount required to liquidate the indebtedness,  
1752 exclusive of any unearned interest, any insurance on the monthly outstanding balance coverage,  
1753 or any finance charge.1754 (8) "Net written premiums" means gross written premiums minus refunds on  
1755 termination.1756 Section 42. Section **31A-22-808** is amended to read:1757 **31A-22-808. Premiums and refunds.**1758 (1) Each policy, certificate, or statement of insurance shall provide that in the event of  
1759 termination of the insurance prior to the scheduled maturity date of the indebtedness, any  
1760 refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the  
1761 person entitled to it. The formula used in computing the refund shall be filed with and  
1762 approved by the commissioner under Chapter 21, Part [H] 2. Approval of Forms. No refund is  
1763 required if it would be less than \$5.

1764 (2) If a creditor requires a debtor to make any payment for credit life or credit accident

1765 and health insurance and an individual policy, certificate, or statement of insurance is not  
1766 issued, the creditor shall immediately give written notice to the debtor and credit the account.

1767 (3) The amount charged the debtor for credit life or accident and health insurance may  
1768 not exceed the premiums charged by the insurer as computed at the time the charge to the  
1769 debtor is determined.

1770 Section 43. Section **31A-23a-102** is amended to read:

1771 **31A-23a-102. Definitions.**

1772 As used in this chapter:

1773 (1) "Bail bond producer" means a person who:

1774 (a) is appointed by:

1775 (i) a surety insurer that issues bail bonds; or

1776 (ii) a bail bond surety company licensed under Chapter 35, Bail Bond Sureties and

1777 Agents Act;

1778 (b) is designated to execute or countersign undertakings of bail in connection with  
1779 judicial proceedings; and

1780 (c) receives or is promised money or other things of value for engaging in an act  
1781 described in Subsection (1)(b).

1782 (2) "Escrow" means a license subline of authority in conjunction with the title  
1783 insurance line of authority that allows a person to conduct escrow as defined in Section  
1784 31A-1-301.

1785 (3) "Home state" means any state or territory of the United States or the District of  
1786 Columbia in which an insurance producer:

1787 (a) maintains the insurance producer's principal:

1788 (i) place of residence; or

1789 (ii) place of business; and

1790 (b) is licensed to act as an insurance producer.

1791 (4) "Insurer" is as defined in Section 31A-1-301, except the following persons or  
1792 similar persons are not insurers for purposes of Part 7, Producer Controlled Insurers:

1793 (a) all risk retention groups as defined in:

1794 (i) the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499;

1795 (ii) the Risk Retention Act, 15 U.S.C. Sec. 3901 et seq.; and

- 1796 (iii) Chapter 15, Part [H] 2, Risk Retention Groups Act;
- 1797 (b) all residual market pools and joint underwriting authorities or associations; and
- 1798 (c) all captive insurers.
- 1799 (5) "License" is defined in Section 31A-1-301.
- 1800 (6) (a) "Managing general agent" means any person, firm, association, or corporation
- 1801 that:
- 1802 (i) manages all or part of the insurance business of an insurer, including the
- 1803 management of a separate division, department, or underwriting office;
- 1804 (ii) acts as an agent for the insurer whether it is known as a managing general agent,
- 1805 manager, or other similar term;
- 1806 (iii) with or without the authority, either separately or together with affiliates, directly
- 1807 or indirectly produces and underwrites an amount of gross direct written premium equal to, or
- 1808 more than 5% of, the policyholder surplus as reported in the last annual statement of the insurer
- 1809 in any one quarter or year; and
- 1810 (iv) (A) adjusts or pays claims in excess of an amount determined by the
- 1811 commissioner; or
- 1812 (B) negotiates reinsurance on behalf of the insurer.
- 1813 (b) Notwithstanding Subsection (6)(a), the following persons may not be considered as
- 1814 managing general agent for the purposes of this chapter:
- 1815 (i) an employee of the insurer;
- 1816 (ii) a United States manager of the United States branch of an alien insurer;
- 1817 (iii) an underwriting manager that, pursuant to contract:
- 1818 (A) manages all the insurance operations of the insurer;
- 1819 (B) is under common control with the insurer;
- 1820 (C) is subject to Chapter 16, Insurance Holding Companies; and
- 1821 (D) is not compensated based on the volume of premiums written; and
- 1822 (iv) the attorney-in-fact authorized by and acting for the subscribers of a reciprocal
- 1823 insurer or inter-insurance exchange under powers of attorney.
- 1824 (7) "Negotiate" means the act of conferring directly with or offering advice directly to a
- 1825 purchaser or prospective purchaser of a particular contract of insurance concerning any of the
- 1826 substantive benefits, terms, or conditions of the contract if the person engaged in that act:

1827 (a) sells insurance; or

1828 (b) obtains insurance from insurers for purchasers.

1829 (8) "Reinsurance intermediary" means a reinsurance intermediary-broker or a  
1830 reinsurance intermediary-manager as these terms are defined in Subsections (9) and (10).

1831 (9) "Reinsurance intermediary-broker" means a person other than an officer or  
1832 employee of the ceding insurer, firm, association, or corporation who solicits, negotiates, or  
1833 places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority  
1834 or power to bind reinsurance on behalf of the insurer.

1835 (10) (a) "Reinsurance intermediary-manager" means a person, firm, association, or  
1836 corporation who:

1837 (i) has authority to bind or who manages all or part of the assumed reinsurance  
1838 business of a reinsurer, including the management of a separate division, department, or  
1839 underwriting office; and

1840 (ii) acts as an agent for the reinsurer whether the person, firm, association, or  
1841 corporation is known as a reinsurance intermediary-manager, manager, or other similar term.

1842 (b) Notwithstanding Subsection (10)(a), the following persons may not be considered  
1843 reinsurance intermediary-managers for the purpose of this chapter with respect to the reinsurer:

1844 (i) an employee of the reinsurer;

1845 (ii) a United States manager of the United States branch of an alien reinsurer;

1846 (iii) an underwriting manager that, pursuant to contract:

1847 (A) manages all the reinsurance operations of the reinsurer;

1848 (B) is under common control with the reinsurer;

1849 (C) is subject to Chapter 16, Insurance Holding Companies; and

1850 (D) is not compensated based on the volume of premiums written; and

1851 (iv) the manager of a group, association, pool, or organization of insurers that:

1852 (A) engage in joint underwriting or joint reinsurance; and

1853 (B) are subject to examination by the insurance commissioner of the state in which the  
1854 manager's principal business office is located.

1855 (11) "Search" means a license subline of authority in conjunction with the title  
1856 insurance line of authority that allows a person to issue title insurance commitments or policies  
1857 on behalf of a title insurer.

- 1858 (12) "Sell" means to exchange a contract of insurance:
- 1859 (a) by any means;
- 1860 (b) for money or its equivalent; and
- 1861 (c) on behalf of an insurance company.
- 1862 (13) "Solicit" means attempting to sell:
- 1863 (a) a particular kind of insurance; and
- 1864 (b) from a particular insurance company.
- 1865 (14) "Terminate" means:
- 1866 (a) the cancellation of the relationship between:
- 1867 (i) an insurance producer; and
- 1868 (ii) a particular insurer; or
- 1869 (b) the termination of the producer's authority to transact insurance on behalf of a
- 1870 particular insurance company.
- 1871 (15) "Title marketing representative" means a person who:
- 1872 (a) represents a title insurer in soliciting, requesting, or negotiating the placing of:
- 1873 (i) title insurance; or
- 1874 (ii) escrow services; and
- 1875 (b) does not have a search or escrow license as provided in Section 31A-23a-106.
- 1876 (16) "Uniform application" means the version of the National Association of Insurance
- 1877 Commissioner's uniform application for resident and nonresident producer licensing at the time
- 1878 the application is filed.
- 1879 (17) "Uniform business entity application" means the version of the National
- 1880 Association of Insurance Commissioner's uniform business entity application for resident and
- 1881 nonresident business entities at the time the application is filed.
- 1882 Section 44. Section **31A-25-202** is amended to read:
- 1883 **31A-25-202. Application for license.**
- 1884 (1) (a) An application for a license as a third party administrator shall be:
- 1885 (i) made to the commissioner on forms and in a manner the commissioner prescribes;
- 1886 and
- 1887 (ii) accompanied by the applicable fee, which is not refundable if the application is
- 1888 denied.

- 1889 (b) The application for a license as a third party administrator shall:
- 1890 (i) state the applicant's:
- 1891 (A) social security number; or
- 1892 (B) federal employer identification number;
- 1893 (ii) provide information about:
- 1894 (A) the applicant's identity;
- 1895 (B) the applicant's personal history, experience, education, and business record;
- 1896 (C) if the applicant is a natural person, whether the applicant is 18 years of age or
- 1897 older; and
- 1898 (D) whether the applicant has committed an act that is a ground for denial, suspension,
- 1899 or revocation as set forth in Section 31A-25-208; and
- 1900 (iii) any other information as the commissioner reasonably requires.
- 1901 (2) The commissioner may require documents reasonably necessary to verify the
- 1902 information contained in the application.
- 1903 (3) The following are private records under Subsection 63-2-302(1)(~~g~~)(h):
- 1904 (a) an applicant's social security number; and
- 1905 (b) an applicant's federal employer identification number.
- 1906 Section 45. Section **31A-30-103** is amended to read:
- 1907 **31A-30-103. Definitions.**
- 1908 As used in this chapter:
- 1909 (1) "Actuarial certification" means a written statement by a member of the American
- 1910 Academy of Actuaries or other individual approved by the commissioner that a covered carrier
- 1911 is in compliance with Section 31A-30-106, based upon the examination of the covered carrier,
- 1912 including review of the appropriate records and of the actuarial assumptions and methods used
- 1913 by the covered carrier in establishing premium rates for applicable health benefit plans.
- 1914 (2) "Affiliate" or "affiliated" means any entity or person who directly or indirectly
- 1915 through one or more intermediaries, controls or is controlled by, or is under common control
- 1916 with, a specified entity or person.
- 1917 (3) "Base premium rate" means, for each class of business as to a rating period, the
- 1918 lowest premium rate charged or that could have been charged under a rating system for that
- 1919 class of business by the covered carrier to covered insureds with similar case characteristics for

1920 health benefit plans with the same or similar coverage.

1921 (4) "Basic coverage" means the coverage provided in the Basic Health Care Plan under  
1922 Subsection 31A-22-613.5(2).

1923 (5) "Carrier" means any person or entity that provides health insurance in this state  
1924 including:

1925 (a) an insurance company;

1926 (b) a prepaid hospital or medical care plan;

1927 (c) a health maintenance organization;

1928 (d) a multiple employer welfare arrangement; and

1929 (e) any other person or entity providing a health insurance plan under this title.

1930 (6) (a) Except as provided in Subsection (6)(b), "case characteristics" means  
1931 demographic or other objective characteristics of a covered insured that are considered by the  
1932 carrier in determining premium rates for the covered insured.

1933 (b) "Case characteristics" does not include:

1934 (i) duration of coverage since the policy was issued;

1935 (ii) claim experience; and

1936 (iii) health status.

1937 (7) "Class of business" means all or a separate grouping of covered insureds  
1938 established under Section 31A-30-105.

1939 (8) "Conversion policy" means a policy providing coverage under the conversion  
1940 provisions required in Chapter 22, Part [VH] 7, Group Accident and Health Insurance.

1941 (9) "Covered carrier" means any individual carrier or small employer carrier subject to  
1942 this chapter.

1943 (10) "Covered individual" means any individual who is covered under a health benefit  
1944 plan subject to this chapter.

1945 (11) "Covered insureds" means small employers and individuals who are issued a  
1946 health benefit plan that is subject to this chapter.

1947 (12) "Dependent" means an individual to the extent that the individual is defined to be  
1948 a dependent by:

1949 (a) the health benefit plan covering the covered individual; and

1950 (b) Chapter 22, Part [VI] 6, Accident and Health Insurance.

1951 (13) "Established geographic service area" means a geographical area approved by the  
1952 commissioner within which the carrier is authorized to provide coverage.

1953 (14) "Index rate" means, for each class of business as to a rating period for covered  
1954 insureds with similar case characteristics, the arithmetic average of the applicable base  
1955 premium rate and the corresponding highest premium rate.

1956 (15) "Individual carrier" means a carrier that provides coverage on an individual basis  
1957 through a health benefit plan regardless of whether:

1958 (a) coverage is offered through:

1959 (i) an association;

1960 (ii) a trust;

1961 (iii) a discretionary group; or

1962 (iv) other similar groups; or

1963 (b) the policy or contract is situated out-of-state.

1964 (16) "Individual conversion policy" means a conversion policy issued to:

1965 (a) an individual; or

1966 (b) an individual with a family.

1967 (17) "Individual coverage count" means the number of natural persons covered under a  
1968 carrier's health benefit products that are individual policies.

1969 (18) "Individual enrollment cap" means the percentage set by the commissioner in  
1970 accordance with Section 31A-30-110.

1971 (19) "New business premium rate" means, for each class of business as to a rating  
1972 period, the lowest premium rate charged or offered, or that could have been charged or offered,  
1973 by the carrier to covered insureds with similar case characteristics for newly issued health  
1974 benefit plans with the same or similar coverage.

1975 (20) "Preexisting condition" is as defined in Section 31A-1-301.

1976 (21) "Premium" means all monies paid by covered insureds and covered individuals as  
1977 a condition of receiving coverage from a covered carrier, including any fees or other  
1978 contributions associated with the health benefit plan.

1979 (22) (a) "Rating period" means the calendar period for which premium rates  
1980 established by a covered carrier are assumed to be in effect, as determined by the carrier.

1981 (b) A covered carrier may not have:



- 1982 (i) more than one rating period in any calendar month; and  
1983 (ii) no more than 12 rating periods in any calendar year.
- 1984 (23) "Resident" means an individual who has resided in this state for at least 12  
1985 consecutive months immediately preceding the date of application.
- 1986 (24) "Short-term limited duration insurance" means a health benefit product that:  
1987 (a) is not renewable; and  
1988 (b) has an expiration date specified in the contract that is less than 364 days after the  
1989 date the plan became effective.
- 1990 (25) "Small employer carrier" means a carrier that provides health benefit plans  
1991 covering eligible employees of one or more small employers in this state, regardless of  
1992 whether:
- 1993 (a) coverage is offered through:  
1994 (i) an association;  
1995 (ii) a trust;  
1996 (iii) a discretionary group; or  
1997 (iv) other similar grouping; or  
1998 (b) the policy or contract is situated out-of-state.
- 1999 (26) "Uninsurable" means an individual who:  
2000 (a) is eligible for the Comprehensive Health Insurance Pool coverage under the  
2001 underwriting criteria established in Subsection 31A-29-111(4); or  
2002 (b) (i) is issued a certificate for coverage under Subsection 31A-30-108(3); and  
2003 (ii) has a condition of health that does not meet consistently applied underwriting  
2004 criteria as established by the commissioner in accordance with Subsections 31A-30-106(1)(i)  
2005 and (j) for which coverage the applicant is applying.
- 2006 (27) "Uninsurable percentage" for a given calendar year equals UC/CI where, for  
2007 purposes of this formula:
- 2008 (a) "UC" means the number of uninsurable individuals who were issued an individual  
2009 policy on or after July 1, 1997; and  
2010 (b) "CI" means the carrier's individual coverage count as of December 31 of the  
2011 preceding year.
- 2012 Section 46. Section **32A-11a-108** is amended to read:

2013           **32A-11a-108. Reasonable compensation -- Arbitration.**

2014           (1) If a supplier violates Section 32A-11a-103 or 32A-11a-107, the supplier shall be  
2015 liable to the wholesaler for the laid-in cost of inventory of the affected brands plus any  
2016 diminution in the fair market value of the wholesaler's business with relation to the affected  
2017 brands. In determining fair market value, consideration shall be given to all elements of value,  
2018 including good will and going concern value.

2019           (2) (a) A distributorship agreement may require that any or all disputes between a  
2020 supplier and a wholesaler be submitted to binding arbitration. In the absence of an applicable  
2021 arbitration provision in the distributorship agreement, either the supplier or the wholesaler may  
2022 request arbitration if a supplier and a wholesaler are unable to mutually agree on:

2023           (i) whether or not good cause exists for termination or nonrenewal;

2024           (ii) whether or not the supplier unreasonably withheld approval of a sale or transfer  
2025 under Section 32A-11a-107; or

2026           (iii) the reasonable compensation to be paid for the value of the wholesaler's business  
2027 in accordance with Subsection (1).

2028           (b) If a supplier or wholesaler requests arbitration under Subsection (2)(a) and the other  
2029 party agrees to submit the matter to arbitration, an arbitration panel shall be created with the  
2030 following members:

2031           (i) one member selected by the supplier in a writing delivered to the wholesaler within  
2032 ten business days of the date arbitration was requested under Subsection (2)(a);

2033           (ii) one member selected by the wholesaler in a writing delivered to the supplier within  
2034 ten business days of the date arbitration was requested under Subsection (2)(a); and

2035           (iii) one member selected by the two arbitrators appointed under Subsections (2)(b)(i)  
2036 and (ii).

2037           (c) If the arbitrators selected under Subsection (2)(b)(iii) fail to choose a third arbitrator  
2038 within ten business days of their selection, a judge of a district court in the county in which the  
2039 wholesaler's principal place of business is located shall select the third arbitrator.

2040           (d) Arbitration costs shall be divided equally between the wholesaler and the supplier.

2041           (e) The award of the arbitration panel is binding on the parties unless appealed within  
2042 20 days from the date of the award.

2043           (f) Subject to the requirements of this chapter, arbitration and all proceedings on appeal

2044 shall be governed by Title 78, Chapter 31a, Utah Uniform Arbitration Act.

2045 Section 47. Section **41-1a-120** is amended to read:

2046 **41-1a-120. Participation in Uninsured Motorist Identification Database Program.**

2047 (1) The division shall provide the Department of Public Safety's designated agent, as  
2048 defined in Section 41-12a-802, with a record of all current motor vehicle registrations.

2049 (2) The division shall perform the duties specified in:

2050 (a) Title 41, Chapter 12a, Part [~~VHH~~] 8, Uninsured Motorist Identification Database  
2051 Program; and

2052 (b) Sections 41-1a-109 and 41-1a-110.

2053 (3) The division shall cooperate with the Department of Public Safety in making rules  
2054 and developing procedures to use the Uninsured Motorist Identification Database.

2055 Section 48. Section **41-12a-306** is amended to read:

2056 **41-12a-306. Claims adjustment by persons with owner's or operator's security**  
2057 **other than insurance.**

2058 (1) An owner or operator of a motor vehicle with respect to whom owner's or operator's  
2059 security is maintained by a means other than an insurance policy under Subsection  
2060 41-12a-103(9)(a), shall refer all bodily injury claims against the owner's or operator's security  
2061 to an independent adjuster licensed under Title 31A, Chapter 26, Insurance Adjusters, or to an  
2062 attorney.

2063 (2) Unless otherwise provided by contract, any motor vehicle claim adjustment  
2064 expense incurred by a person maintaining owner's or operator's security by a means other than  
2065 an insurance policy under Subsection 41-12a-103(9)(a), shall be paid by the person who  
2066 maintains this type of owner's or operator's security.

2067 (3) Owners and operators of motor vehicles maintaining owner or operator's security by  
2068 a means other than an insurance policy under Subsection 41-12a-103(9)(a) are subject to the  
2069 claim adjustment provisions of Title 31A, Chapter 26, Part [~~HH~~] 3, Claim Practices, in  
2070 connection with claims against such persons which arise out of the ownership, maintenance, or  
2071 use of a motor vehicle.

2072 (4) In addition to other penalties and remedies available for failure to abide by this  
2073 section, the department may require any person violating this section to maintain owner's or  
2074 operator's security only in the manner specified under Subsection 41-12a-103(9)(a).

2075 Section 49. Section **46-4-503** is amended to read:

2076 **46-4-503. Government products and services provided electronically.**

2077 (1) Notwithstanding Section 46-4-501, a state governmental agency that administers  
2078 one or more of the following transactions shall allow those transactions to be conducted  
2079 electronically:

2080 (a) an application for or renewal of a professional or occupational license issued under  
2081 Title 58, Occupations and Professions;

2082 (b) the renewal of a drivers license;

2083 (c) an application for a hunting or fishing license;

2084 (d) the filing of:

2085 (i) a return under Title 59, Chapter 10 or 12;

2086 (ii) a court document, as defined by the Judicial Council; or

2087 (iii) a document under Title 70A, Uniform Commercial Code;

2088 (e) a registration for:

2089 (i) a product; or

2090 (ii) a brand;

2091 (f) a renewal of a registration of a motor vehicle;

2092 (g) a registration under:

2093 (i) Title 16, Corporations;

2094 (ii) Title 42, Names; or

2095 (iii) Title 48, [~~Partnerships~~] Partnership; or

2096 (h) submission of an application for benefits:

2097 (i) under Title 35A, Chapter 3, Employment Support Act;

2098 (ii) under Title 35A, Chapter 4, Employment Security Act; or

2099 (iii) related to accident and health insurance.

2100 (2) The state system of public education, in coordination with the Utah Education  
2101 Network, shall make reasonable progress toward making the following services available  
2102 electronically:

2103 (a) secure access by parents and students to student grades and progress reports;

2104 (b) e-mail communications with:

2105 (i) teachers;

- 2106 (ii) parent-teacher associations; and  
2107 (iii) school administrators;  
2108 (c) access to school calendars and schedules; and  
2109 (d) teaching resources that may include:  
2110 (i) teaching plans;  
2111 (ii) curriculum guides; and  
2112 (iii) media resources.  
2113 (3) A state governmental agency shall:  
2114 (a) in carrying out the requirements of this section, take reasonable steps to ensure the  
2115 security and privacy of records that are private or controlled as defined by Title 63, Chapter 2,  
2116 Government Records Access and Management Act;  
2117 (b) in addition to those transactions listed in Subsections (1) and (2), determine any  
2118 additional services that may be made available to the public through electronic means; and  
2119 (c) as part of [~~their agency~~] the agency's information technology [~~plans~~] plan required  
2120 by Section 63D-1a-303, report on the progress of compliance with Subsections (1) through (3).  
2121 (4) Notwithstanding the other provisions of this part, a state governmental agency is not  
2122 required by this part to conduct a transaction electronically if:  
2123 (a) conducting the transaction electronically is not required by federal law; and  
2124 (b) conducting the transaction electronically is:  
2125 (i) impractical;  
2126 (ii) unreasonable; or  
2127 (iii) not permitted by laws pertaining to privacy or security.  
2128 Section 50. Section **53-3-102** is amended to read:  
2129 **53-3-102. Definitions.**  
2130 As used in this chapter:  
2131 (1) "Cancellation" means the termination by the division of a license issued through  
2132 error or fraud or for which consent under Section 53-3-211 has been withdrawn.  
2133 (2) "Class D license" means the class of license issued to drive motor vehicles not  
2134 defined as commercial motor vehicles or motorcycles under this chapter.  
2135 (3) "Class M license" means the class of license issued to drive a motorcycle as defined  
2136 under this chapter.

2137 (4) "Commercial driver license" or "CDL" means a license issued substantially in  
2138 accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle  
2139 Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act,  
2140 which authorizes the holder to drive a class of commercial motor vehicle.

2141 (5) (a) "Commercial motor vehicle" means a motor vehicle designed or used to  
2142 transport passengers or property if the vehicle:

2143 (i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as  
2144 determined by federal regulation;

2145 (ii) is designed to transport more than 15 passengers, including the driver; or

2146 (iii) is transporting hazardous materials and is required to be placarded in accordance  
2147 with 49 C.F.R. Part 172, Subpart F.

2148 (b) The following vehicles are not considered a commercial motor vehicle for purposes  
2149 of Part 4, Uniform Commercial Driver License Act:

2150 (i) equipment owned and operated by the United States Department of Defense when  
2151 driven by any active duty military personnel and members of the reserves and national guard on  
2152 active duty including personnel on full-time national guard duty, personnel on part-time  
2153 training, and national guard military technicians and civilians who are required to wear military  
2154 uniforms and are subject to the code of military justice;

2155 (ii) vehicles controlled and driven by a farmer to transport agricultural products, farm  
2156 machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation  
2157 as a motor carrier for hire;

2158 (iii) firefighting and emergency vehicles; and

2159 (iv) recreational vehicles that are not used in commerce and are driven solely as family  
2160 or personal conveyances for recreational purposes.

2161 (6) "Conviction" means any of the following:

2162 (a) an unvacated adjudication of guilt or a determination that a person has violated or  
2163 failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

2164 (b) an unvacated forfeiture of bail or collateral deposited to secure a person's  
2165 appearance in court;

2166 (c) a plea of guilty or nolo contendere accepted by the court;

2167 (d) the payment of a fine or court costs;

2168 (e) violation of a condition of release without bail, regardless of whether the penalty is  
2169 rebated, suspended, or probated.

2170 (7) "Denial" or "denied" means the withdrawal of a driving privilege by the division to  
2171 which the provisions of Title 41, Chapter 12a, Part ~~[F]~~ 4, Proof of Owner's or Operator's  
2172 Security, do not apply.

2173 (8) "Director" means the division director appointed under Section 53-3-103.

2174 (9) "Disqualification" means either:

2175 (a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state  
2176 of a person's privileges to drive a commercial motor vehicle;

2177 (b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386,  
2178 that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part  
2179 391; or

2180 (c) the loss of qualification that automatically follows conviction of an offense listed in  
2181 49 C.F.R. Part 383.51.

2182 (10) "Division" means the Driver License Division of the department created in  
2183 Section 53-3-103.

2184 (11) "Drive" means:

2185 (a) to operate or be in physical control of a motor vehicle upon a highway; and

2186 (b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections  
2187 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within  
2188 the state.

2189 (12) (a) "Driver" means any person who drives, or is in actual physical control of a  
2190 motor vehicle in any location open to the general public for purposes of vehicular traffic.

2191 (b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person  
2192 who is required to hold a CDL under Part 4 or federal law.

2193 (13) "Extension" means a renewal completed exclusively by mail.

2194 (14) "Farm tractor" means every motor vehicle designed and used primarily as a farm  
2195 implement for drawing plows, mowing machines, and other implements of husbandry.

2196 (15) "Highway" means the entire width between property lines of every way or place of  
2197 any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

2198 (16) "License" means the privilege to drive a motor vehicle.

2199 (17) "License certificate" means the evidence of the privilege issued under this chapter  
2200 to drive a motor vehicle.

2201 (18) "Motorboat" has the same meaning as provided under Section 73-18-2.

2202 (19) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or  
2203 saddle for the use of the rider and designed to travel with not more than three wheels in contact  
2204 with the ground.

2205 (20) "Nonresident" means a person who:

2206 (a) is not a resident of this state; and

2207 (b) (i) has not engaged in any gainful occupation in this state for an aggregate period of  
2208 60 days in the preceding 12 months; or

2209 (ii) is temporarily assigned by his employer to work in Utah.

2210 (21) (a) "Owner" means a person other than a lienholder having an interest in the  
2211 property or title to a vehicle.

2212 (b) "Owner" includes a person entitled to the use and possession of a vehicle subject to  
2213 a security interest in another person but excludes a lessee under a lease not intended as security.

2214 (22) "Renewal" means to validate a license certificate so that it expires at a later date.

2215 (23) "Reportable violation" means an offense required to be reported to the division as  
2216 determined by the division and includes those offenses against which points are assessed under  
2217 Section 53-3-221.

2218 (24) "Revocation" means the termination by action of the division of a licensee's  
2219 privilege to drive a motor vehicle.

2220 (25) "School bus" means every publicly or privately owned motor vehicle designed for  
2221 transporting ten or more passengers and operated for the transportation of children to or from  
2222 school or school activities.

2223 (26) "Suspension" means the temporary withdrawal by action of the division of a  
2224 licensee's privilege to drive a motor vehicle.

2225 (27) "Taxicab" means any class D motor vehicle transporting any number of  
2226 passengers for hire and that is subject to state or federal regulation as a taxi.

2227 Section 51. Section **53B-2a-102** is amended to read:

2228 **53B-2a-102. President -- Appointment -- Duties.**

2229 (1) (a) The board shall appoint a president for the Utah College of Applied



2230 Technology.

2231 (b) The president of the Utah College of Applied Technology does not need to have a  
2232 doctorate degree, but shall have extensive experience in applied technology education.

2233 (c) The president shall serve at the board's discretion.

2234 (d) The names of the final candidates for president of the Utah College of Applied  
2235 Technology shall be publicly disclosed.

2236 (e) The chair and vice chair of the Utah College of Applied Technology Board of  
2237 Trustees shall be members of the search committee for the president.

2238 (2) The president shall:

2239 (a) direct the Utah College of Applied Technology and coordinate the activities of each  
2240 of its college campuses;

2241 (b) in cooperation with the board of trustees and with the approval of the board,  
2242 develop a competency-based associate of applied technology degree;

2243 (c) ensure that an applied technology education degree is transferable to other higher  
2244 education institutions in accordance with board rules;

2245 (d) in consultation with the board of trustees, campus presidents, and campus boards of  
2246 directors, prepare a comprehensive strategic plan for delivering applied technology education  
2247 through the Utah College of Applied Technology college campuses;

2248 (e) after consulting with local school districts and other higher education institutions in  
2249 the regions, ensure that the curricula of the Utah College of Applied Technology [~~meets~~] meet  
2250 the needs of the state, the regions, and the local school districts;

2251 (f) in consultation with the board of trustees, campus presidents, and campus boards of  
2252 directors, and after consulting with local school districts and other higher education institutions  
2253 in the region, develop strategies for providing applied technology education in rural areas,  
2254 specifically considering the distances between rural applied technology education providers;

2255 (g) establish minimum standards for applied technology programs of the Utah College  
2256 of Applied Technology college campuses;

2257 (h) in conjunction with the board of trustees, develop and implement a system of  
2258 common definitions, standards, and criteria for tracking and measuring the effectiveness of  
2259 applied technology education;

2260 (i) in conjunction with the board of trustees, develop and implement a plan to inform

2261 citizens about the availability, cost, and advantages of applied technology education;

2262 (j) after consulting with the State Board of Education and local school districts, ensure  
2263 that secondary students in the public education system have access to applied technology  
2264 education through the Utah College of Applied Technology college campuses; and

2265 (k) provide expertise and monitor applied technology education within the region  
2266 served by Snow College in accordance with Section 53B-16-205.

2267 Section 52. Section **54-8a-8.5** is amended to read:

2268 **54-8a-8.5. Alternative dispute resolution.**

2269 (1) An association formed under Section 54-8a-9 shall make available an alternative  
2270 dispute resolution program to resolve disputes arising from damage to underground facilities  
2271 between:

2272 (a) an operator;

2273 (b) an owner;

2274 (c) an excavator; or

2275 (d) other interested party.

2276 (2) The alternative dispute program created under this section is in addition to the  
2277 ability of a party to bring a civil action under Section 54-8a-8.

2278 (3) The alternative dispute resolution program shall:

2279 (a) include mediation and arbitration;

2280 (b) require that one or more appointed mediators or arbitrators decide:

2281 (i) the issue of liability for any reimbursement; and

2282 (ii) the amount of reimbursement; and

2283 (c) shall be consistent with Title 78, Chapter 31a, Utah Uniform Arbitration Act.

2284 (4) Nothing in this section shall be construed to change the basis for civil liability for  
2285 damages.

2286 Section 53. Section **57-8-38** is amended to read:

2287 **57-8-38. Arbitration.**

2288 The declaration, bylaws, or association rules may provide that disputes between the  
2289 parties shall be submitted to arbitration pursuant to Title 78, Chapter 31a, Utah Uniform  
2290 Arbitration Act.

2291 Section 54. Section **58-1-301** is amended to read:

2292           **58-1-301. License application -- Licensing procedure.**

2293           (1) (a) Each license applicant shall apply to the division in writing upon forms  
2294 available from the division. Each completed application shall contain documentation of the  
2295 particular qualifications required of the applicant, shall include the applicant's social security  
2296 number, shall be verified by the applicant, and shall be accompanied by the appropriate fees.

2297           (b) An applicant's social security number is a private record under Subsection  
2298 63-2-302(1)[~~(g)~~](h).

2299           (2) (a) A license shall be issued to an applicant who submits a complete application if  
2300 the division determines that the applicant meets the qualifications of licensure.

2301           (b) A written notice of additional proceedings shall be provided to an applicant who  
2302 submits a complete application, but who has been, is, or will be placed under investigation by  
2303 the division for conduct directly bearing upon his qualifications for licensure, if the outcome of  
2304 additional proceedings is required to determine the division's response to the application.

2305           (c) A written notice of denial of licensure shall be provided to an applicant who  
2306 submits a complete application if the division determines that the applicant does not meet the  
2307 qualifications of licensure.

2308           (d) A written notice of incomplete application and conditional denial of licensure shall  
2309 be provided to an applicant who submits an incomplete application. This notice shall advise  
2310 the applicant that the application is incomplete and that the application is denied, unless the  
2311 applicant corrects the deficiencies within the time period specified in the notice and otherwise  
2312 meets all qualifications for licensure.

2313           (3) Before any person is issued a license under this title, all requirements for that  
2314 license as established under this title and by rule shall be met.

2315           (4) If all requirements are met for the specific license, the division shall issue the  
2316 license.

2317           Section 55. Section **58-37d-4** is amended to read:

2318           **58-37d-4. Prohibited acts -- Second degree felony.**

2319           (1) It is unlawful for any person to knowingly or intentionally:

2320           (a) possess a controlled substance precursor with the intent to engage in a clandestine  
2321 laboratory operation;

2322           (b) possess laboratory equipment or supplies with the intent to engage in a clandestine

2323 laboratory operation;

2324 (c) sell, distribute, or otherwise supply a precursor chemical, laboratory equipment, or  
2325 laboratory supplies knowing or having reasonable cause to believe it will be used for a  
2326 clandestine laboratory operation;

2327 (d) evade recordkeeping provisions of Title 58, Chapter 37c, Utah Controlled  
2328 ~~[Substances]~~ Substance Precursor Act, or the regulations issued under that act, knowing or  
2329 having reasonable cause to believe that the material distributed or received will be used for a  
2330 clandestine laboratory operation;

2331 (e) conspire with or aid another to engage in a clandestine laboratory operation;

2332 (f) produce or manufacture, or possess with intent to produce or manufacture a  
2333 controlled or counterfeit substance except as authorized under Title 58, Chapter 37, Utah  
2334 Controlled Substances Act;

2335 (g) transport or convey a controlled or counterfeit substance with the intent to  
2336 distribute or to be distributed by the person transporting or conveying the controlled or  
2337 counterfeit substance or by any other person regardless of whether the final destination for the  
2338 distribution is within this state or any other location; or

2339 (h) engage in compounding, synthesis, concentration, purification, separation,  
2340 extraction, or other physical or chemical processing of any substance, including a controlled  
2341 substance precursor, or the packaging, repackaging, labeling, or relabeling of a container  
2342 holding a substance that is a product of any of these activities, knowing or having reasonable  
2343 cause to believe that the substance ~~[that]~~ is a product of any of these activities and will be used  
2344 in the illegal manufacture of specified controlled substances.

2345 (2) A person who violates any provision of Subsection (1) is guilty of a second degree  
2346 felony.

2347 Section 56. Section **58-46a-305** is amended to read:

2348 **58-46a-305. Exemptions from licensure.**

2349 In addition to the exemptions from licensure in Section 58-1-307, the following persons  
2350 may engage in acts and practices included within the definition of practice as a hearing  
2351 instrument specialist or hearing instrument intern, subject to their professional licensure  
2352 authorization and restrictions, without being licensed under this chapter:

2353 (1) an audiologist licensed under the provisions of Title 58, Chapter 41,

2354 Speech-language Pathology and Audiology Licensing Act; and

2355 (2) a physician and surgeon licensed under the provisions of Title 58, Chapter 67, Utah  
2356 Medical Practice Act, or osteopathic physician licensed under the provisions of Title 58,  
2357 Chapter ~~[12]~~ 68, ~~[Part 1,]~~ Utah Osteopathic [Medicine Licensing] Medical Practice Act.

2358 Section 57. Section **58-55-103** is amended to read:

2359 **58-55-103. Construction Services Commission created -- Functions --**

2360 **Appointment -- Qualifications and terms of members -- Vacancies -- Expenses --**

2361 **Meetings.**

2362 (1) There is created within the division the Construction Services Commission. The  
2363 commission shall:

2364 (a) with the concurrence of the director, make reasonable rules under Title 63, Chapter  
2365 46a, Utah Administrative Rulemaking Act, to administer and enforce this chapter which are  
2366 consistent with this chapter including:

2367 (i) licensing of various licensees;

2368 (ii) approving and establishing a passing score for applicant examinations;

2369 (iii) standards of supervision for students or persons in training to become qualified to  
2370 obtain a license in the trade they represent; and

2371 (iv) standards of conduct for various licensees;

2372 (b) approve or disapprove fees adopted by the division under Section 63-38-3.2;

2373 (c) except where the boards conduct them, conduct all administrative hearings not  
2374 delegated to an administrative law judge relating to the licensing of any applicant;

2375 (d) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the  
2376 concurrence of the director, impose sanctions against licensees and certificate holders with the  
2377 same authority as the division under Section 58-1-401;

2378 (e) advise the director on the administration and enforcement of any matters affecting  
2379 the division and the construction industry;

2380 (f) advise the director on matters affecting the division budget;

2381 (g) advise and assist trade associations in conducting construction trade seminars and  
2382 industry education and promotion; and

2383 (h) perform other duties as provided by this chapter.

2384 (2) Initially the commission shall be comprised of the five members of the Contractors

2385 Licensing Board and two of the three chair persons from the Plumbers Licensing Board, the  
2386 Alarm System Security and Licensing Board, and the Electricians Licensing Board. The terms  
2387 of office of the commission members who are serving on the Contractors Licensing Board shall  
2388 continue as they serve on the commission. The commission shall be comprised of seven  
2389 members appointed by the executive director with the approval of the governor from the  
2390 following groups:

2391 (a) one member shall be a licensed general engineering contractor;

2392 (b) one member shall be a licensed general building contractor;

2393 (c) two members shall be licensed residential and small commercial contractors;

2394 (d) two members shall be two of the three chair persons from the Plumbers Licensing  
2395 Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board,  
2396 with the contingency that they will rotate in succession every two years among the three chair  
2397 persons; and

2398 (e) one member shall be from the general public, provided, however that the certified  
2399 public accountant on the Contractors Licensing Board will continue to serve until the current  
2400 term expires, after which this one member shall be appointed from the general public.

2401 (3) (a) Except as required by Subsection (3)(b), as terms of current commission  
2402 members expire, the executive director with the approval of the governor shall appoint each  
2403 new member or reappointed member to a four-year term ending June 30.

2404 (b) Notwithstanding the requirements of Subsection (3)(a), the executive director with  
2405 the approval of the governor shall, at the time of appointment or reappointment, adjust the  
2406 length of terms to stagger the terms of commission members so that approximately one-half of  
2407 the commission members are appointed every two years.

2408 (c) A commission member may not serve more than two consecutive terms.

2409 (4) The commission shall elect annually one of its members as chair, for a term of one  
2410 year.

2411 (5) When a vacancy occurs in the membership for any reason, the replacement shall be  
2412 appointed for the unexpired term.

2413 (6) (a) Members shall receive no compensation or benefits for their services, but may  
2414 receive per diem and expenses incurred in the performance of the members' official duties at  
2415 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

- 2416 (b) Members may decline to receive per diem and expenses for their service.
- 2417 (7) The commission shall meet at least monthly unless the director determines  
2418 otherwise. The director may call additional meetings at the director's discretion, upon the  
2419 request of the chair, or upon the written request of three or more commission members.
- 2420 (8) Four members constitute a quorum for the transaction of business. If a quorum is  
2421 present when a vote is taken, the affirmative vote of commission members present is the act of  
2422 the commission.
- 2423 (9) The commission shall comply with the procedures and requirements of Title 13,  
2424 Chapter 1, Department of Commerce, and Title 63, Chapter 46b, Administrative Procedures  
2425 Act, in all of its adjudicative proceedings.
- 2426 Section 58. Section **58-55-302** is amended to read:
- 2427 **58-55-302. Qualifications for licensure.**
- 2428 (1) Each applicant for a license under this chapter shall:
- 2429 (a) submit an application prescribed by the division;
- 2430 (b) pay a fee as determined by the department under Section 63-38-3.2;
- 2431 (c) (i) meet the examination requirements established by rule by the commission with  
2432 the concurrence of the director, except for the classifications of apprentice plumber, residential  
2433 apprentice plumber, and apprentice electrician for whom no examination is required; or  
2434 (ii) if required in Section 58-55-304, the individual qualifier must pass the required  
2435 examination if the applicant is a business entity;
- 2436 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;
- 2437 (e) if an applicant for a contractor's license:
- 2438 (i) produce satisfactory evidence of financial responsibility, except for a construction  
2439 trades instructor for whom evidence of financial responsibility is not required;
- 2440 (ii) produce satisfactory evidence of knowledge and experience in the construction  
2441 industry and knowledge of the principles of the conduct of business as a contractor, reasonably  
2442 necessary for the protection of the public health, safety, and welfare; and
- 2443 (iii) be a licensed master electrician if an applicant for an electrical contractor's license  
2444 or a licensed master residential electrician if an applicant for a residential electrical contractor's  
2445 license; or
- 2446 (iv) be a journeyman plumber or residential journeyman plumber if an applicant for a

2447 plumbing contractor's license; and

2448 (f) if an applicant for a construction trades instructor license, satisfy any additional  
2449 requirements established by rule.

2450 (2) After approval of an applicant for a contractor's license by the applicable board and  
2451 the division, the applicant shall file the following with the division before the division issues  
2452 the license:

2453 (a) proof of workers' compensation insurance which covers employees of the applicant  
2454 in accordance with applicable Utah law;

2455 (b) proof of public liability insurance in coverage amounts and form established by rule  
2456 except for a construction trades instructor for whom public liability insurance is not required;  
2457 and

2458 (c) proof of registration as required by applicable law with the:

2459 (i) Utah Department of Commerce;

2460 (ii) Division of Corporations and Commercial Code;

2461 (iii) Division of Workforce Information and Payment Services in the Department of  
2462 Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

2463 (iv) State Tax Commission; and

2464 (v) Internal Revenue Service.

2465 (3) In addition to the general requirements for each applicant in Subsection (1),  
2466 applicants shall comply with the following requirements to be licensed in the following  
2467 classifications:

2468 (a) A journeyman plumber applicant shall produce satisfactory evidence of:

2469 (i) successful completion of the equivalent of at least four years of full-time training  
2470 and instruction as a licensed apprentice plumber under supervision of a licensed journeyman  
2471 plumber and in accordance with a planned program of training approved by the division;

2472 (ii) at least eight years of full-time experience approved by the division in collaboration  
2473 with the Plumbers Licensing Board; or

2474 (iii) satisfactory evidence of meeting the qualifications determined by the board to be  
2475 equivalent to Subsection (3)(a)(i) or (a)(ii).

2476 (b) A residential journeyman plumber shall produce satisfactory evidence of:

2477 (i) completion of the equivalent of at least three years of full-time training and



2478 instruction as a licensed apprentice plumber under the supervision of a licensed residential  
2479 journeyman plumber or licensed journeyman plumber in accordance with a planned program of  
2480 training approved by the division;

2481 (ii) completion of at least six years of full-time experience in a maintenance or repair  
2482 trade involving substantial plumbing work; or

2483 (iii) meeting the qualifications determined by the board to be equivalent to Subsection  
2484 (3)(b)(i) or (b)(ii).

2485 (c) A master electrician applicant shall produce satisfactory evidence that the applicant:

2486 (i) is a graduate electrical engineer of an accredited college or university approved by  
2487 the division and has one year of practical electrical experience as a licensed apprentice  
2488 electrician;

2489 (ii) is a graduate of an electrical trade school, having received an associate of applied  
2490 sciences degree following successful completion of a course of study approved by the division,  
2491 and has two years of practical experience as a licensed journeyman electrician;

2492 (iii) is a graduate of an electrical trade school, having received a certificate of  
2493 completion following successful completion of a course of study approved by the division, and  
2494 has four years of practical experience as a journeyman electrician;

2495 (iv) has at least eight years of practical experience under the supervision of a licensed  
2496 journeyman or master electrician; or

2497 (v) meets the qualifications determined by the board to be equivalent to these  
2498 qualifications.

2499 (d) A master residential electrician applicant shall produce satisfactory evidence that  
2500 the applicant:

2501 (i) has at least two years of practical experience as a residential journeyman electrician;  
2502 or

2503 (ii) meets the qualifications determined by the board to be equivalent to this practical  
2504 experience.

2505 (e) A journeyman electrician applicant shall produce satisfactory evidence that the  
2506 applicant:

2507 (i) has successfully completed at least four years of full-time training and instruction as  
2508 a licensed apprentice electrician under the supervision of a master electrician or journeyman

2509 electrician and in accordance with a planned training program approved by the division;

2510 (ii) has six years of practical experience in wiring, installing, and repairing electrical  
2511 apparatus and equipment for light, heat, and power under the supervision of a licensed master  
2512 or journeyman electrician; or

2513 (iii) meets the qualifications determined by the board to be equivalent to these  
2514 qualifications.

2515 (f) A residential journeyman electrician applicant shall produce satisfactory evidence  
2516 that the applicant:

2517 (i) has successfully completed two years of training in an electrical training program  
2518 approved by the division;

2519 (ii) has four years of practical experience in wiring, installing, and repairing electrical  
2520 apparatus and equipment for light, heat, and power under the supervision of a licensed master,  
2521 journeyman, residential master, or residential journeyman electrician; or

2522 (iii) meets the qualifications determined by the division and applicable board to be  
2523 equivalent to Subsection (3)(f)(i) or (f)(ii).

2524 (g) The conduct of licensed apprentice electricians and their licensed supervisors shall  
2525 be in accordance with the following:

2526 (i) A licensed apprentice electrician shall be under the immediate supervision of a  
2527 licensed master, journeyman, residential master, or residential journeyman electrician. An  
2528 apprentice in the fourth year of training may work without supervision for a period not to  
2529 exceed eight hours in any 24-hour period.

2530 (ii) A licensed master, journeyman, residential master, or residential journeyman  
2531 electrician may have under immediate supervision on a residential project up to three licensed  
2532 apprentice electricians.

2533 (iii) A licensed master or journeyman electrician may have under immediate  
2534 supervision on nonresidential projects only one licensed apprentice electrician.

2535 (h) An alarm company applicant shall:

2536 (i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of  
2537 the applicant who:

2538 (A) demonstrates 6,000 hours of experience in the alarm company business;

2539 (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm

2540 company business or in a construction business; and

2541 (C) passes an examination component established by rule by the commission with the  
2542 concurrence of the director;

2543 (ii) if a corporation, provide:

2544 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards  
2545 of all corporate officers, directors, and those responsible management personnel employed  
2546 within the state or having direct responsibility for managing operations of the applicant within  
2547 the state; and

2548 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards  
2549 of all shareholders owning 5% or more of the outstanding shares of the corporation, except this  
2550 shall not be required if the stock is publicly listed and traded;

2551 (iii) if a limited liability company, provide:

2552 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards  
2553 of all company officers, and those responsible management personnel employed within the  
2554 state or having direct responsibility for managing operations of the applicant within the state;  
2555 and

2556 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards  
2557 of all individuals owning 5% or more of the equity of the company;

2558 (iv) if a partnership, the names, addresses, dates of birth, social security numbers, and  
2559 fingerprint cards of all general partners, and those responsible management personnel  
2560 employed within the state or having direct responsibility for managing operations of the  
2561 applicant within the state;

2562 (v) if a proprietorship, the names, addresses, dates of birth, social security numbers,  
2563 and fingerprint cards of the proprietor, and those responsible management personnel employed  
2564 within the state or having direct responsibility for managing operations of the applicant within  
2565 the state;

2566 (vi) be of good moral character in that officers, directors, shareholders described in  
2567 Subsection (3)(h)(ii)(B), partners, proprietors, and responsible management personnel have not  
2568 been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that  
2569 when considered with the duties and responsibilities of an alarm company is considered by the  
2570 board to indicate that the best interests of the public are served by granting the applicant a

2571 license;

2572 (vii) document that none of the applicant's officers, directors, shareholders described in  
2573 Subsection (3)(h)(ii)(B), partners, proprietors, and responsible management personnel have  
2574 been declared by any court of competent jurisdiction incompetent by reason of mental defect or  
2575 disease and not been restored;

2576 (viii) document that none of the applicant's officers, directors, shareholders described  
2577 in Subsection (3)(h)(ii)(B), partners, proprietors, and responsible management personnel are  
2578 currently suffering from habitual drunkenness or from drug addiction or dependence;

2579 (ix) file and maintain with the division evidence of:

2580 (A) comprehensive general liability insurance in form and in amounts to be established  
2581 by rule by the commission with the concurrence of the director;

2582 (B) workers' compensation insurance that covers employees of the applicant in  
2583 accordance with applicable Utah law; and

2584 (C) registration as is required by applicable law with the:

2585 (I) Division of Corporations and Commercial Code;

2586 (II) Division of Workforce Information and Payment Services in the Department of  
2587 Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

2588 (III) State Tax Commission; and

2589 (IV) Internal Revenue Service; and

2590 (x) meet with the division and board.

2591 (i) Each applicant for licensure as an alarm company agent shall:

2592 (i) submit an application in a form prescribed by the division accompanied by  
2593 fingerprint cards;

2594 (ii) pay a fee determined by the department under Section 63-38-3.2;

2595 (iii) be of good moral character in that the applicant has not been convicted of a felony,  
2596 a misdemeanor involving moral turpitude, or any other crime that when considered with the  
2597 duties and responsibilities of an alarm company agent is considered by the board to indicate  
2598 that the best interests of the public are served by granting the applicant a license;

2599 (iv) not have been declared by any court of competent jurisdiction incompetent by  
2600 reason of mental defect or disease and not been restored;

2601 (v) not be currently suffering from habitual drunkenness or from drug addiction or

2602 dependence; and

2603 (vi) meet with the division and board if requested by the division or the board.

2604 (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
2605 division may make rules establishing when Federal Bureau of Investigation records shall be  
2606 checked for applicants as an alarm company or alarm company agent.

2607 (5) To determine if an applicant meets the qualifications of Subsections (3)(h)(vi) and  
2608 (3)(i)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the  
2609 Department of Public Safety with the division's request to:

2610 (a) conduct a search of records of the Department of Public Safety for criminal history  
2611 information relating to each applicant for licensure as an alarm company or alarm company  
2612 agent and each applicant's officers, directors, shareholders described in Subsection  
2613 (3)(h)(ii)(B), partners, proprietors, and responsible management personnel; and

2614 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant  
2615 requiring a check of records of the F.B.I. for criminal history information under this section.

2616 (6) The Department of Public Safety shall send to the division:

2617 (a) a written record of criminal history, or certification of no criminal history record, as  
2618 contained in the records of the Department of Public Safety in a timely manner after receipt of  
2619 a fingerprint card from the division and a request for review of Department of Public Safety  
2620 records; and

2621 (b) the results of the F.B.I. review concerning an applicant in a timely manner after  
2622 receipt of information from the F.B.I.

2623 (7) (a) The division shall charge each applicant for licensure as an alarm company or  
2624 alarm company agent a fee, in accordance with Section 63-38-3.2, equal to the cost of  
2625 performing the records reviews under this section.

2626 (b) The division shall pay the Department of Public Safety the costs of all records  
2627 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews  
2628 under this section.

2629 (8) Information obtained by the division from the reviews of criminal history records of  
2630 the Department of Public Safety and the F.B.I. shall be used or disseminated by the division  
2631 only for the purpose of determining if an applicant for licensure as an alarm company or alarm  
2632 company agent is qualified for licensure.

2633 (9) (a) An application for licensure under this chapter shall be denied if:  
2634 (i) the applicant has had a previous license, which was issued under this chapter,  
2635 suspended or revoked within one year prior to the date of the applicant's application;  
2636 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and  
2637 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the  
2638 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar  
2639 status, performing similar functions, or directly or indirectly controlling the applicant has  
2640 served in any similar capacity with any person or entity which has had a previous license,  
2641 which was issued under this chapter, suspended or revoked within one year prior to the date of  
2642 the applicant's application; or  
2643 (iii) (A) the applicant is an individual or sole proprietorship; and  
2644 (B) any owner or agent acting as a qualifier has served in any capacity listed in  
2645 Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under  
2646 this chapter, suspended or revoked within one year prior to the date of the applicant's  
2647 application.  
2648 (b) An application for licensure under this chapter shall be reviewed by the appropriate  
2649 licensing board prior to approval if:  
2650 (i) the applicant has had a previous license, which was issued under this chapter,  
2651 suspended or revoked more than one year prior to the date of the applicant's application;  
2652 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and  
2653 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the  
2654 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar  
2655 status, performing similar functions, or directly or indirectly controlling the applicant has  
2656 served in any similar capacity with any person or entity which has had a previous license,  
2657 which was issued under this chapter, suspended or revoked more than one year prior to the date  
2658 of the applicant's application; or  
2659 (iii) (A) the applicant is an individual or sole proprietorship; and  
2660 (B) any owner or agent acting as a qualifier has served in any capacity listed in  
2661 Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under  
2662 this chapter, suspended or revoked more than one year prior to the date of the applicant's  
2663 application.

2664 Section 59. Section **58-63-102** is amended to read:

2665 **58-63-102. Definitions.**

2666 In addition to the definitions in Section 58-1-102, as used in this chapter:

2667 (1) "Armed courier service" means a person engaged in business as a contract security  
2668 company who transports or offers to transport tangible personal property from one place or  
2669 point to another under the control of an armed security officer employed by that service.

2670 (2) "Armed private security officer" means an individual:

2671 (a) employed by a contract security company;

2672 (b) whose primary duty is that of guarding personal or real property, or providing  
2673 protection or security to the life and well being of humans or animals; and

2674 (c) who wears, carries, possesses, or has immediate access to a firearm at any time in  
2675 the performance of the individual's duties.

2676 (3) "Armored car service" means a person engaged in business as a contract security  
2677 company who transports or offers to transport tangible personal property from one place or  
2678 point to another under the control of an armed or unarmed private security officer employed by  
2679 the company using a specially equipped motor vehicle offering a high degree of security.

2680 (4) "Board" means the Security Services Licensing Board created in Section  
2681 58-63-201.

2682 (5) "Contract security company" means a person engaged in business to provide  
2683 security or guard services to another person for the purpose of protecting tangible personal  
2684 property, real property, or the life and well being of human or animal life by assignment of  
2685 security officers employed by the company and the use of specialized resources, motor  
2686 vehicles, or equipment.

2687 (6) "Identification card" means a personal pocket or wallet size card issued by the  
2688 division to each security officer licensed under this chapter.

2689 (7) "Officer" means a president, vice president, secretary, treasurer, or other officer of a  
2690 corporation or limited liability company listed as an officer in the files with the Division of  
2691 Corporations and Commercial Code.

2692 (8) "Owner" means a proprietor or general partner of a proprietorship or partnership.

2693 (9) "Peace officer" means a person who:

2694 (a) is a certified peace officer as defined in Title 53, Chapter ~~[6]~~ 13, Peace Officer

2695 [~~Standards and Training Act~~] Classifications; and

2696 (b) derives total or special law enforcement powers from, and is an employee of the  
2697 federal government, the state, or any political subdivision, agency, department, branch, or  
2698 service of either, of any municipality, or of any other unit of local government.

2699 (10) "Regular basis" means 20 or more hours per month.

2700 (11) (a) "Security officer" means an individual who:

2701 (i) is employed by a contract security company securing, guarding, or otherwise  
2702 protecting tangible personal property, real property, or the life and well being of human or  
2703 animal life against:

2704 (A) trespass or other unlawful intrusion or entry;

2705 (B) larceny;

2706 (C) vandalism or other abuse;

2707 (D) arson or any other criminal activity; or

2708 (E) personal injury caused by another person or as a result of acts or omissions by  
2709 another person;

2710 (ii) is controlling, regulating, or directing the flow of movements of individuals or  
2711 vehicles; or

2712 (iii) providing street patrol service.

2713 (b) "Security officer" does not include an individual whose duties are limited to  
2714 custodial or other services even though the presence of that individual may act to provide some  
2715 of the services set forth under Subsection (11)(a).

2716 (12) "Security system" means equipment, devices, or instruments installed for the  
2717 purpose of:

2718 (a) detecting and signaling entry or intrusion by some individual into or onto, or exit  
2719 from the premises protected by the system; or

2720 (b) signaling the commission of a robbery or other criminal activity at the election of  
2721 an individual having control of the features of the security system.

2722 (13) "Street patrol service" means a person engaged in business as a contract security  
2723 company who provides patrols by means of foot, vehicle, or other method of transportation  
2724 using public streets, thoroughfares, or property in the performance of their duties and  
2725 responsibilities.



2726 (14) "Unarmed private security officer" means an individual:

2727 (a) employed by a contract security company;

2728 (b) whose primary duty is that of guarding personal or real property, or providing  
2729 protection or security to the life and well being of humans or animals;

2730 (c) who never wears, carries, possesses, or has immediate access to a firearm at any  
2731 time in the performance of his duties; and

2732 (d) who wears clothing of distinctive design or fashion bearing any symbol, badge,  
2733 emblem, insignia, or other device that identifies or tends to identify the wearer as a security  
2734 officer.

2735 (15) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-63-501.

2736 (16) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-63-502 and as  
2737 may be further defined by rule.

2738 Section 60. Section **59-2-103** is amended to read:

2739 **59-2-103. Rate of assessment of property -- Residential property.**

2740 (1) All tangible taxable property shall be assessed and taxed at a uniform and equal rate  
2741 on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

2742 (2) Beginning January 1, 1995, the fair market value of residential property shall be  
2743 reduced by 45%, representing a residential exemption allowed under Utah Constitution Article  
2744 XIII, Section 2[~~Utah Constitution~~].

2745 (3) No more than one acre of land per residential unit may qualify for the residential  
2746 exemption.

2747 Section 61. Section **59-7-605** is amended to read:

2748 **59-7-605. Definitions -- Tax credit -- Cleaner burning fuels.**

2749 (1) As used in this section:

2750 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air  
2751 Conservation Act.

2752 (b) "Certified by the board" means that:

2753 (i) a motor vehicle on which conversion equipment has been installed meets the  
2754 following criteria:

2755 (A) before the installation of conversion equipment, the vehicle does not exceed the  
2756 emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51,

2757 Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;

2758 (B) the motor vehicle's emissions of regulated pollutants, when operating on fuels  
2759 listed in Subsection (2)(b), is less than the emissions were before the installation of conversion  
2760 equipment; and

2761 (C) a reduction in emissions under Subsection (1)(b)(i)(B) is demonstrated by:

2762 (I) certification of the conversion equipment by the federal Environmental Protection  
2763 Agency or by a state whose certification standards are recognized by the board;

2764 (II) testing the motor vehicle, before and after installation of the conversion equipment,  
2765 in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway  
2766 Vehicles and Engines, using all fuel the motor vehicle is capable of using; or

2767 (III) any other test or standard recognized by board rule; or

2768 (ii) special mobile equipment on which conversion equipment has been installed meets  
2769 the following criteria:

2770 (A) the special mobile equipment's emissions of regulated pollutants, when operating  
2771 on fuels listed in Subsection (2)(c), is less than the emissions were before the installation of  
2772 conversion equipment; and

2773 (B) a reduction in emissions under Subsection (1)(b)(ii)(A) is demonstrated by:

2774 (I) certification of the conversion equipment by the federal Environmental Protection  
2775 Agency or by a state whose certification standards are recognized by the board; or

2776 (II) any other test or standard recognized by board rule.

2777 (c) "Clean fuel grant" means a grant awarded under Title [9] 63, Chapter [1] 34, Part  
2778 [7] 2, Clean Fuels Conversion Program Act, for reimbursement of a portion of the incremental  
2779 cost of an OEM vehicle or the cost of conversion equipment.

2780 (d) "Conversion equipment" means equipment referred to in Subsection (2)(b) or  
2781 (2)(c).

2782 (e) "Incremental cost" has the same meaning as in Section 63-34-202.

2783 (f) "OEM vehicle" has the same meaning as in Section 63-34-202.

2784 (g) "Special mobile equipment":

2785 (i) means any mobile equipment or vehicle that is not designed or used primarily for  
2786 the transportation of persons or property; and

2787 (ii) includes construction or maintenance equipment.

2788 (2) For taxable years beginning on or after January 1, 2001, but beginning on or before  
2789 December 31, 2005, a taxpayer may claim a tax credit against tax otherwise due under this  
2790 chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay  
2791 Corporate Franchise or Income Tax Act, in an amount equal to:

2792 (a) 50% of the incremental cost of an OEM vehicle registered in Utah minus the  
2793 amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if  
2794 the vehicle:

2795 (i) is fueled by propane, natural gas, or electricity;

2796 (ii) is fueled by other fuel the board determines annually on or before July 1 to be at  
2797 least as effective in reducing air pollution as fuels under Subsection (2)(a)(i); or

2798 (iii) meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of  
2799 1990, 42 U.S.C. Sec. 7521 et seq.;

2800 (b) 50% of the cost of equipment for conversion, if certified by the board, of a motor  
2801 vehicle registered in Utah minus the amount of any clean fuel grant received, up to a maximum  
2802 tax credit of \$2,500 per motor vehicle, if the motor vehicle is to:

2803 (i) be fueled by propane, natural gas, or electricity;

2804 (ii) be fueled by other fuel the board determines annually on or before July 1 to be at  
2805 least as effective in reducing air pollution as fuels under Subsection (2)(b)(i); or

2806 (iii) meet the federal clean-fuel vehicle standards in the federal Clean Air Act  
2807 Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and

2808 (c) 50% of the cost of equipment for conversion, if certified by the board, of a special  
2809 mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum  
2810 tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to  
2811 be fueled by:

2812 (i) propane, natural gas, or electricity; or

2813 (ii) other fuel the board determines annually on or before July 1 to be:

2814 (A) at least as effective in reducing air pollution as the fuels under Subsection (2)(c)(i);

2815 or

2816 (B) substantially more effective in reducing air pollution than the fuel for which the  
2817 engine was originally designed.

2818 (3) A taxpayer shall provide proof of the purchase of an item for which a tax credit is

2819 allowed under this section by:

- 2820 (a) providing proof to the board in the form the board requires by rule;
- 2821 (b) receiving a written statement from the board acknowledging receipt of the proof;
- 2822 and
- 2823 (c) retaining the written statement described in Subsection (3)(b).
- 2824 (4) Except as provided by Subsection (5), the tax credit under this section is allowed

2825 only:

- 2826 (a) against any Utah tax owed in the taxable year by the taxpayer;
- 2827 (b) in the taxable year in which the item is purchased for which the tax credit is
- 2828 claimed; and
- 2829 (c) once per vehicle.

2830 (5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the  
2831 taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit  
2832 exceeding the tax liability may be carried forward for a period that does not exceed the next  
2833 five taxable years.

2834 Section 62. Section **59-10-127** is amended to read:

2835 **59-10-127. Definitions -- Tax credit -- Cleaner burning fuels.**

2836 (1) As used in this section:

2837 (a) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air  
2838 Conservation Act.

2839 (b) "Certified by the board" means that:

2840 (i) a motor vehicle on which conversion equipment has been installed meets the  
2841 following criteria:

2842 (A) before the installation of conversion equipment, the vehicle does not exceed the  
2843 emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51,  
2844 Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;

2845 (B) the motor vehicle's emissions of regulated pollutants, when operating on fuels  
2846 listed in Subsection (2)(b), is less than the emissions were before the installation of conversion  
2847 equipment; and

2848 (C) a reduction in emissions under Subsection (1)(b)(i)(B) is demonstrated by:

2849 (I) certification of the conversion equipment by the federal Environmental Protection

2850 Agency or by a state whose certification standards are recognized by the board;

2851 (II) testing the motor vehicle, before and after installation of the conversion equipment,

2852 in accordance with 40 C.F.R. Part 86, Control Emissions from New and In-use Highway

2853 Vehicles and Engines, using all fuels the motor vehicle is capable of using; or

2854 (III) any other test or standard recognized by board rule; or

2855 (ii) special mobile equipment on which conversion equipment has been installed meets

2856 the following criteria:

2857 (A) the special mobile equipment's emissions of regulated pollutants, when operating

2858 on fuels listed in Subsection (2)(c), is less than the emissions were before the installation of

2859 conversion equipment; and

2860 (B) a reduction in emissions under Subsection (1)(b)(ii)(A) is demonstrated by:

2861 (I) certification of the conversion equipment by the federal Environmental Protection

2862 Agency or by a state whose certification standards are recognized by the board; or

2863 (II) any other test or standard recognized by the board.

2864 (c) "Clean fuel grant" means a grant the taxpayer receives under Title [9] 63, Chapter

2865 [4] 34, Part [7] 2, Clean Fuels Conversion Program Act, for reimbursement of a portion of the

2866 incremental cost of the OEM vehicle or the cost of conversion equipment.

2867 (d) "Conversion equipment" means equipment referred to in Subsection (2)(b) or

2868 (2)(c).

2869 (e) "Incremental cost" has the same meaning as in Section 63-34-202.

2870 (f) "OEM vehicle" has the same meaning as in Section 63-34-202.

2871 (g) "Special mobile equipment":

2872 (i) means any mobile equipment or vehicle not designed or used primarily for the

2873 transportation of persons or property; and

2874 (ii) includes construction or maintenance equipment.

2875 (2) For taxable years beginning on or after January 1, 2001, but beginning on or before

2876 December 31, 2005, a taxpayer may claim a tax credit against tax otherwise due under this

2877 chapter in an amount equal to:

2878 (a) 50% of the incremental cost of an OEM vehicle registered in Utah minus the

2879 amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if

2880 the vehicle:

2881 (i) is fueled by propane, natural gas, or electricity;  
2882 (ii) is fueled by other fuel the board determines annually on or before July 1 to be at  
2883 least as effective in reducing air pollution as fuels under Subsection (2)(a)(i); or  
2884 (iii) meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of  
2885 1990, 42 U.S.C. Sec. 7521 et seq.;

2886 (b) 50% of the cost of equipment for conversion, if certified by the board, of a motor  
2887 vehicle registered in Utah minus the amount of any clean fuel conversion grant received, up to  
2888 a maximum tax credit of \$2,500 per vehicle, if the motor vehicle:

2889 (i) is to be fueled by propane, natural gas, or electricity;  
2890 (ii) is to be fueled by other fuel the board determines annually on or before July 1 to be  
2891 at least as effective in reducing air pollution as fuels under Subsection (2)(b)(i); or  
2892 (iii) will meet the federal clean fuel vehicle standards in the federal Clean Air Act  
2893 Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and

2894 (c) 50% of the cost of equipment for conversion, if certified by the board, of a special  
2895 mobile equipment engine minus the amount of any clean fuel conversion grant received, up to a  
2896 maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile  
2897 equipment is to be fueled by:

2898 (i) propane, natural gas, or electricity; or  
2899 (ii) other fuel the board determines annually on or before July 1 to be:

2900 (A) at least as effective in reducing air pollution as the fuels under Subsection (2)(c)(i);  
2901 or  
2902 (B) substantially more effective in reducing air pollution than the fuel for which the  
2903 engine was originally designed.

2904 (3) An individual shall provide proof of the purchase of an item for which a tax credit  
2905 is allowed under this section by:

2906 (a) providing proof to the board in the form the board requires by rule;  
2907 (b) receiving a written statement from the board acknowledging receipt of the proof;  
2908 and  
2909 (c) retaining the written statement described in Subsection (3)(b).  
2910 (4) Except as provided by Subsection (5), the tax credit under this section is allowed  
2911 only:

- 2912 (a) against any Utah tax owed in the taxable year by the taxpayer;
- 2913 (b) in the taxable year in which the item is purchased for which the tax credit is
- 2914 claimed; and
- 2915 (c) once per vehicle.

2916 (5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the

2917 taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit

2918 exceeding the tax liability may be carried forward for a period that does not exceed the next

2919 five taxable years.

2920 Section 63. Section **59-12-1503** is amended to read:

2921 **59-12-1503. Opinion question election -- Imposition of tax -- Use of tax revenues**

2922 **-- Administration, collection, and enforcement of tax by commission -- Administrative fee**

2923 **-- Enactment or repeal of tax -- Annexation -- Notice.**

2924 (1) (a) Beginning on or after April 1, 2004, and subject to the other provisions of this

2925 part, the county legislative body of a qualifying county may impose a sales and use tax of .25%:

2926 (i) except as provided in Subsection (1)(b), on the transactions:

2927 (A) described in Subsection 59-12-103(1); and

2928 (B) within the county, including the cities and towns within the county;

2929 (ii) for the purposes determined by the county legislative body in accordance with

2930 Subsection (2); and

2931 (iii) in addition to any other sales and use tax authorized under this chapter.

2932 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a

2933 tax under this section on:

2934 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses

2935 are exempt from taxation under Section 59-12-104; and

2936 (ii) any amount paid or charged by a vendor that collects a tax under Subsection

2937 59-12-107(1)(b).

2938 (2) (a) Subject to Subsection (2)(b), before obtaining the approval required by

2939 Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of

2940 revenues the county will receive from the tax under this part that will be allocated to fund one

2941 or more of the following:

2942 (i) a project or service relating to a fixed guideway system:

2943 (A) for the portion of the project or service that is performed within the county; and  
2944 (B) if the fixed guideway system is owned and operated by a public transit district  
2945 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

2946 (ii) a project or service relating to a system for public transit:  
2947 (A) for the portion of the project or service that is performed within the county; and  
2948 (B) if the system for public transit is owned and operated by a public transit district  
2949 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; or

2950 (iii) the following relating to a state highway within the county:  
2951 (A) a project beginning on or after the day on which a county legislative body imposes  
2952 a tax under this part only within the county involving:  
2953 (I) new construction;  
2954 (II) a renovation;  
2955 (III) an improvement; or  
2956 (IV) an environmental study;  
2957 (B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or  
2958 (C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I)  
2959 through (IV).

2960 (b) (i) A county legislative body shall in the resolution required by Subsection (2)(a)  
2961 allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the  
2962 tax under this part.

2963 (ii) For purposes of this Subsection (2)(b), the revenues a county will receive from the  
2964 tax under this part do not include amounts retained by the commission in accordance with  
2965 Subsection (8).

2966 (3) (a) Before imposing a tax under this part, a county legislative body shall:  
2967 (i) obtain approval from a majority of the members of the county legislative body to:  
2968 (A) impose the tax; and  
2969 (B) allocate the revenues the county will receive from the tax in accordance with the  
2970 resolution adopted in accordance with Subsection (2); and  
2971 (ii) subject to Subsection (3)(b), submit an opinion question to the county's registered  
2972 voters voting on the imposition of the tax so that each registered voter has the opportunity to  
2973 express the registered voter's opinion on whether a tax should be imposed under this part.



- 2974 (b) The opinion question required by Subsection (3)(a)(ii) shall state the allocations  
2975 specified in the resolution:
- 2976 (i) adopted in accordance with Subsection (2); and  
2977 (ii) approved by the county legislative body in accordance with Subsection (3)(a).
- 2978 (c) The election required by this Subsection (3) shall be held:
- 2979 (i) (A) at a regular general election; and  
2980 (B) in accordance with the procedures and requirements of Title 20A, Election Code,  
2981 governing regular general elections; or  
2982 (ii) (A) at a special election called by the county legislative body;  
2983 (B) only on the date of a municipal general election provided in Subsection  
2984 20A-1-202(1); and  
2985 (C) in accordance with the procedures and requirements of Section [~~20A-a-203~~]  
2986 20A-1-203.
- 2987 (4) (a) Subject to Subsection (8), if a county legislative body determines that a majority  
2988 of the county's registered voters voting on the imposition of the tax have voted in favor of the  
2989 imposition of the tax in accordance with Subsection (3), the county legislative body may  
2990 impose the tax by a majority vote of all of the members of the county legislative body.
- 2991 (b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues  
2992 generated by the tax shall be:
- 2993 (i) allocated in accordance with the allocations specified in the resolution under  
2994 Subsection (2); and  
2995 (ii) expended as provided in this part.
- 2996 (5) If a county legislative body allocates revenues generated by the tax for a project  
2997 described in Subsection (2)(a)(iii)(A), before beginning the project the county legislative body  
2998 shall:
- 2999 (a) obtain approval from the Transportation Commission to complete the project; and  
3000 (b) enter into an interlocal agreement:
- 3001 (i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;  
3002 (ii) with the Department of Transportation; and  
3003 (iii) to complete the project.
- 3004 (6) (a) If after a county legislative body imposes a tax under Subsection (4) the county

3005 legislative body seeks to change the allocation of the tax specified in the resolution under  
3006 Subsection (2), the county legislative body may change the allocation of the tax by:

3007 (i) adopting a resolution in accordance with Subsection (2) specifying the percentage of  
3008 revenues the county will receive from the tax under this part that will be allocated to fund one  
3009 or more of the systems or projects described in Subsection (2);

3010 (ii) obtaining approval to change the allocation of the tax from a majority of the  
3011 members of the county legislative body; and

3012 (iii) (A) submitting an opinion question to the county's registered voters voting on  
3013 changing the allocation of the tax so that each registered voter has the opportunity to express  
3014 the registered voter's opinion on whether the allocation of the tax should be changed; and

3015 (B) obtaining approval to change the allocation of the tax from a majority of the  
3016 county's registered voters voting on changing the allocation of the tax.

3017 (b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations  
3018 specified in the resolution:

3019 (A) adopted in accordance with Subsection (6)(a)(i); and

3020 (B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).

3021 (ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and  
3022 requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

3023 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), revenues generated by a tax  
3024 under this part that are allocated for a purpose described in Subsection (2)(a)(i) or (ii) shall be  
3025 transmitted:

3026 (A) by the commission;

3027 (B) to the county;

3028 (C) monthly; and

3029 (D) by electronic funds transfer.

3030 (ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission  
3031 transfer the revenues described in Subsection (7)(a)(i):

3032 (A) directly to a public transit district:

3033 (I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and

3034 (II) designated by the county; and

3035 (B) by providing written notice to the commission:

- 3036 (I) requesting the revenues to be transferred directly to a public transit district as  
3037 provided in Subsection (7)(a)(ii)(A); and
- 3038 (II) designating the public transit district to which the revenues are requested to be  
3039 transferred.
- 3040 (b) Revenues generated by a tax under this part that are allocated for a purpose  
3041 described in Subsection (2)(a)(iii) shall be:
- 3042 (i) deposited into the State Highway Projects Within Counties Fund created by Section  
3043 72-2-121.1; and
- 3044 (ii) expended as provided in Section 72-2-121.1.
- 3045 (8) (a) The commission shall administer, collect, and enforce the tax under this part in  
3046 accordance with the procedures outlined in:
- 3047 (i) Part 1, Tax Collection, for the administration, collection, and enforcement of the  
3048 state sales and use tax; and
- 3049 (ii) Chapter 1, General Taxation Policies.
- 3050 (b) (i) The commission may retain an amount of tax collected under this part of not to  
3051 exceed the lesser of:
- 3052 (A) 1.5%; or
- 3053 (B) an amount equal to the cost to the commission of administering this part.
- 3054 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:
- 3055 (A) placed in the Sales and Use Tax Administrative Fees Account; and
- 3056 (B) used as provided in Subsection 59-12-206(2).
- 3057 (9) (a) (i) If, on or after April 1, 2004, a county enacts or repeals a tax under this part,  
3058 the enactment or repeal shall take effect:
- 3059 (A) on the first day of a calendar quarter; and
- 3060 (B) after a 75-day period beginning on the date the commission receives notice meeting  
3061 the requirements of Subsection (9)(a)(ii) from the county.
- 3062 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:
- 3063 (A) that the county will enact or repeal a tax under this part;
- 3064 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);
- 3065 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and
- 3066 (D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.

3067 (b) (i) If, for an annexation that occurs on or after April 1, 2004, the annexation will  
3068 result in the enactment or repeal of a tax under this part for an annexing area, the enactment or  
3069 repeal shall take effect:

3070 (A) on the first day of a calendar quarter; and

3071 (B) after a 75-day period beginning on the date the commission receives notice meeting  
3072 the requirements of Subsection (9)(b)(ii) from the county that annexes the annexing area.

3073 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

3074 (A) that the annexation described in Subsection (9)(b)(i)(B) will result in an enactment  
3075 or repeal of a tax under this part for the annexing area;

3076 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

3077 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

3078 (D) the rate of the tax described in Subsection (9)(b)(ii)(A).

3079 Section 64. Section **61-1-4** is amended to read:

3080 **61-1-4. Licensing and notice filing procedure.**

3081 (1) (a) A broker-dealer, agent, investment adviser, or investment adviser representative  
3082 must obtain an initial or renewal license by filing with the division or its designee an  
3083 application together with a consent to service of process under Section 61-1-26.

3084 (b) (i) The application shall contain the applicant's social security number and whatever  
3085 information the division by rule requires concerning such matters as:

3086 (A) the applicant's form and place of organization;

3087 (B) the applicant's proposed method of doing business;

3088 (C) the qualifications and business history of the applicant; in the case of a  
3089 broker-dealer or investment adviser, the qualifications and business history of any partner,  
3090 officer, or director, any person occupying a similar status or performing similar functions, or  
3091 any person directly or indirectly controlling the broker-dealer or investment adviser;

3092 (D) any injunction or administrative order or conviction of a misdemeanor involving a  
3093 security or any aspect of the securities business and any conviction of a felony; and

3094 (E) the applicant's financial condition and history.

3095 (ii) An applicant's social security number is a private record under Subsection  
3096 63-2-302(1)(~~g~~)(h).

3097 (c) The division may, by rule or order, require an applicant for an initial license to

3098 publish an announcement of the application in one or more specified newspapers published in  
3099 this state.

3100 (d) Licenses or notice filings of broker-dealers, agents, investment advisers, and  
3101 investment adviser representatives shall expire on December 31 of each year.

3102 (e) (i) If no denial order is in effect and no proceeding is pending under Section 61-1-6,  
3103 a license becomes effective at noon of the 30th day after an application is filed.

3104 (ii) The division may by rule or order specify an earlier effective date and may by order  
3105 defer the effective date until noon of the 30th day after the filing of any amendment.

3106 (iii) Licensing of a broker-dealer automatically constitutes licensing of only one  
3107 partner, officer, director, or a person occupying a similar status or performing similar functions  
3108 as a licensed agent of the broker-dealer.

3109 (iv) Licensing of an investment adviser automatically constitutes licensing of only one  
3110 partner, officer, director, or a person occupying a similar status or performing similar functions.

3111 (2) Except with respect to federal covered advisers whose only clients are those  
3112 described in Subsection 61-1-3(3)(b) or (c), a federal covered adviser shall file with the  
3113 division, prior to acting as a federal covered adviser in this state, a notice filing consisting of  
3114 such documents as have been filed with the Securities and Exchange Commission as the  
3115 division by rule or order may require.

3116 (3) (a) Any applicant for an initial or renewal license as a broker-dealer or agent shall  
3117 pay a reasonable filing fee as determined under Section 61-1-18.4.

3118 (b) Any applicant for an initial or renewal license as an investment adviser or  
3119 investment adviser representative who is subject to licensing under this chapter shall pay a  
3120 reasonable filing fee as determined under Section 61-1-18.4.

3121 (c) Any person acting as a federal covered adviser in this state shall pay an initial and  
3122 renewal notice filing fee as determined under Section 61-1-18.4.

3123 (d) If the license or renewal is not granted or the application is withdrawn, the division  
3124 shall retain the fee.

3125 (4) A licensed broker-dealer or investment adviser may file an application for licensing  
3126 of a successor for the unexpired portion of the year. There shall be no filing fee.

3127 (5) The division may by rule or order require a minimum capital for licensed  
3128 broker-dealers, subject to the limitations of Section 15 of the Securities Exchange Act of 1934,

3129 and establish minimum financial requirements for investment advisers, subject to the  
3130 limitations of Section 222 of the Investment Advisers Act of 1940, which may include different  
3131 requirements for those investment advisers who maintain custody of or have discretionary  
3132 authority over client funds or securities and those investment advisers who do not.

3133 (6) (a) The division may by rule or order require licensed broker-dealers and  
3134 investment advisers who have custody of or discretionary authority over client funds or  
3135 securities to post bonds in amounts as the division may prescribe, subject to the limitations of  
3136 Section 15 of the Securities Exchange Act of 1934 for broker-dealers and Section 222 of the  
3137 Investment Advisers Act of 1940 for investment advisers, and may determine their conditions.

3138 (b) Any appropriate deposit of cash or securities may be accepted in lieu of any  
3139 required bond.

3140 (c) No bond may be required of any licensee whose net capital, or in the case of an  
3141 investment adviser whose minimum financial requirements, which may be defined by rule,  
3142 exceeds the amounts required by the division.

3143 (d) Every bond shall provide for suit on the bond by any person who has a cause of  
3144 action under Section 61-1-22 and, if the division by rule or order requires, by any person who  
3145 has a cause of action not arising under this chapter.

3146 (e) Every bond shall provide that no suit may be maintained to enforce any liability on  
3147 the bond unless brought before the expiration of four years after the act or transaction  
3148 constituting the violation or the expiration of two years after the discovery by the plaintiff of  
3149 the facts constituting the violation, whichever expires first.

3150 Section 65. Section **61-2-6** is amended to read:

3151 **61-2-6. Licensing procedures and requirements.**

3152 (1) The Real Estate Commission shall determine the qualifications and requirements of  
3153 applicants for a principal broker, associate broker, or sales agent license. The division, with the  
3154 concurrence of the commission, shall require and pass upon proof necessary to determine the  
3155 honesty, integrity, truthfulness, reputation, and competency of each applicant for an initial  
3156 license or for renewal of an existing license. The division, with the concurrence of the  
3157 commission, shall require an applicant for a sales agent license to complete an approved  
3158 educational program not to exceed 90 hours, and an applicant for an associate broker or  
3159 principal broker license to complete an approved educational program not to exceed 120 hours.

3160 The hours required by this section mean 50 minutes of instruction in each 60 minutes; and the  
3161 maximum number of program hours available to an individual is ten hours per day. The  
3162 division, with the concurrence of the commission, shall require the applicant to pass an  
3163 examination approved by the commission covering the fundamentals of the English language,  
3164 arithmetic, bookkeeping, real estate principles and practices, the provisions of this chapter, the  
3165 rules established by the Real Estate Commission, and any other aspect of Utah real estate  
3166 license law considered appropriate. Three years' full-time experience as a real estate sales  
3167 agent or its equivalent is required before any applicant may apply for, and secure a principal  
3168 broker or associate broker license in this state. The commission shall establish by rule the  
3169 criteria by which it will accept experience or special education in similar fields of business in  
3170 lieu of the three years' experience.

3171 (2) (a) The division, with the concurrence of the commission, may require an applicant  
3172 to furnish a sworn statement setting forth evidence satisfactory to the division of the applicant's  
3173 reputation and competency as set forth by rule.

3174 (b) The division shall require an applicant to provide his social security number, which  
3175 is a private record under Subsection 63-2-302(1)(~~g~~)(h).

3176 (3) A nonresident principal broker may be licensed in this state by conforming to all  
3177 the provisions of this chapter except that of residency. A nonresident associate broker or sales  
3178 agent may become licensed in this state by conforming to all the provisions of this chapter  
3179 except that of residency and by being employed or engaged as an independent contractor by or  
3180 on behalf of a nonresident or resident principal broker who is licensed in this state.

3181 (4) An applicant who has had a real estate license revoked shall be relicensed as  
3182 prescribed for an original application, but may not apply for a new license until at least five  
3183 years after the revocation. In the case of an applicant for a new license as a principal broker or  
3184 associate broker, the applicant is not entitled to credit for experience gained prior to the  
3185 revocation of license.

3186 Section 66. Section **63-2-301** is amended to read:

3187 **63-2-301. Records that must be disclosed.**

3188 (1) The following records are public except to the extent they contain information  
3189 expressly permitted to be treated confidentially under the provisions of Subsections  
3190 63-2-201(3)(b) and (6)(a):

- 3191 (a) laws;
- 3192 (b) names, gender, gross compensation, job titles, job descriptions, business addresses,  
3193 business telephone numbers, number of hours worked per pay period, dates of employment,  
3194 and relevant education, previous employment, and similar job qualifications of the  
3195 governmental entity's former and present employees and officers excluding:
  - 3196 (i) undercover law enforcement personnel; and
  - 3197 (ii) investigative personnel if disclosure could reasonably be expected to impair the  
3198 effectiveness of investigations or endanger any individual's safety;
- 3199 (c) final opinions, including concurring and dissenting opinions, and orders that are  
3200 made by a governmental entity in an administrative, adjudicative, or judicial proceeding except  
3201 that if the proceedings were properly closed to the public, the opinion and order may be  
3202 withheld to the extent that they contain information that is private, controlled, or protected;
- 3203 (d) final interpretations of statutes or rules by a governmental entity unless classified as  
3204 protected as provided in Subsections 63-2-304 (16), (17), and (18);
- 3205 (e) information contained in or compiled from a transcript, minutes, or report of the  
3206 open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open  
3207 and Public Meetings, including the records of all votes of each member of the governmental  
3208 entity;
- 3209 (f) judicial records unless a court orders the records to be restricted under the rules of  
3210 civil or criminal procedure or unless the records are private under this chapter;
- 3211 (g) unless otherwise classified as private under Section 63-2-302.5, records or parts of  
3212 records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning  
3213 commissions, the Division of Forestry, Fire and State Lands, the School and Institutional Trust  
3214 Lands Administration, the Division of Oil, Gas and Mining, the Division of Water Rights, or  
3215 other governmental entities that give public notice of:
  - 3216 (i) titles or encumbrances to real property;
  - 3217 (ii) restrictions on the use of real property;
  - 3218 (iii) the capacity of persons to take or convey title to real property; or
  - 3219 (iv) tax status for real and personal property;
- 3220 (h) records of the Department of Commerce that evidence incorporations, mergers,  
3221 name changes, and uniform commercial code filings;



- 3222 (i) data on individuals that would otherwise be private under this chapter if the  
3223 individual who is the subject of the record has given the governmental entity written  
3224 permission to make the records available to the public;
- 3225 (j) documentation of the compensation that a governmental entity pays to a contractor  
3226 or private provider;
- 3227 (k) summary data; and
- 3228 (l) voter registration records, including an individual's voting history, except for those  
3229 parts of the record that are classified as private in Subsection 63-2-302(1)~~(h)~~(i).
- 3230 (2) The following records are normally public, but to the extent that a record is  
3231 expressly exempt from disclosure, access may be restricted under Subsection 63-2-201(3)(b),  
3232 Section 63-2-302, 63-2-303, or 63-2-304:
- 3233 (a) administrative staff manuals, instructions to staff, and statements of policy;
- 3234 (b) records documenting a contractor's or private provider's compliance with the terms  
3235 of a contract with a governmental entity;
- 3236 (c) records documenting the services provided by a contractor or a private provider to  
3237 the extent the records would be public if prepared by the governmental entity;
- 3238 (d) contracts entered into by a governmental entity;
- 3239 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds  
3240 by a governmental entity;
- 3241 (f) records relating to government assistance or incentives publicly disclosed,  
3242 contracted for, or given by a governmental entity, encouraging a person to expand or relocate a  
3243 business in Utah, except as provided in Subsection 63-2-304 (35);
- 3244 (g) chronological logs and initial contact reports;
- 3245 (h) correspondence by and with a governmental entity in which the governmental entity  
3246 determines or states an opinion upon the rights of the state, a political subdivision, the public,  
3247 or any person;
- 3248 (i) empirical data contained in drafts if:
- 3249 (i) the empirical data is not reasonably available to the requester elsewhere in similar  
3250 form; and
- 3251 (ii) the governmental entity is given a reasonable opportunity to correct any errors or  
3252 make nonsubstantive changes before release;

- 3253 (j) drafts that are circulated to anyone other than:
- 3254 (i) a governmental entity;
- 3255 (ii) a political subdivision;
- 3256 (iii) a federal agency if the governmental entity and the federal agency are jointly
- 3257 responsible for implementation of a program or project that has been legislatively approved;
- 3258 (iv) a government-managed corporation; or
- 3259 (v) a contractor or private provider;
- 3260 (k) drafts that have never been finalized but were relied upon by the governmental
- 3261 entity in carrying out action or policy;
- 3262 (l) original data in a computer program if the governmental entity chooses not to
- 3263 disclose the program;
- 3264 (m) arrest warrants after issuance, except that, for good cause, a court may order
- 3265 restricted access to arrest warrants prior to service;
- 3266 (n) search warrants after execution and filing of the return, except that a court, for good
- 3267 cause, may order restricted access to search warrants prior to trial;
- 3268 (o) records that would disclose information relating to formal charges or disciplinary
- 3269 actions against a past or present governmental entity employee if:
- 3270 (i) the disciplinary action has been completed and all time periods for administrative
- 3271 appeal have expired; and
- 3272 (ii) the charges on which the disciplinary action was based were sustained;
- 3273 (p) records maintained by the Division of Forestry, Fire and State Lands, the School
- 3274 and Institutional Trust Lands Administration, or the Division of Oil, Gas and Mining that
- 3275 evidence mineral production on government lands;
- 3276 (q) final audit reports;
- 3277 (r) occupational and professional licenses;
- 3278 (s) business licenses; and
- 3279 (t) a notice of violation, a notice of agency action under Section 63-46b-3, or similar
- 3280 records used to initiate proceedings for discipline or sanctions against persons regulated by a
- 3281 governmental entity, but not including records that initiate employee discipline.
- 3282 (3) The list of public records in this section is not exhaustive and should not be used to
- 3283 limit access to records.

3284 Section 67. Section **63-2-302** is amended to read:

3285 **63-2-302. Private records.**

3286 (1) The following records are private:

3287 (a) records concerning an individual's eligibility for unemployment insurance benefits,  
3288 social services, welfare benefits, or the determination of benefit levels;

3289 (b) records containing data on individuals describing medical history, diagnosis,  
3290 condition, treatment, evaluation, or similar medical data;

3291 (c) records of publicly funded libraries that when examined alone or with other records  
3292 identify a patron;

3293 (d) records received or generated for a Senate or House Ethics Committee concerning  
3294 any alleged violation of the rules on legislative ethics, prior to the meeting, and after the  
3295 meeting, if the ethics committee meeting was closed to the public;

3296 (e) records received or generated for a Senate confirmation committee concerning  
3297 character, professional competence, or physical or mental health of an individual:

3298 (i) if prior to the meeting, the chair of the committee determines release of the records:

3299 (A) reasonably could be expected to interfere with the investigation undertaken by the  
3300 committee; or

3301 (B) would create a danger of depriving a person of a right to a fair proceeding or  
3302 impartial hearing; and

3303 (ii) after the meeting, if the meeting was closed to the public;

3304 (f) employment records concerning a current or former employee of, or applicant for  
3305 employment with, a governmental entity that would disclose that individual's home address,  
3306 home telephone number, Social Security number, insurance coverage, marital status, or payroll  
3307 deductions;

3308 (g) records or parts of records under Section 63-2-302.5 that a current or former  
3309 employee identifies as private according to the requirements of that section;

3310 (h) that part of a record indicating a person's Social Security number or federal  
3311 employer identification number if provided under Section 31A-23a-104, 31A-25-202,  
3312 31A-26-202, 58-1-301, 61-1-4, or 61-2-6;

3313 (i) that part of a voter registration record identifying a voter's driver license or  
3314 identification card number, Social Security number, or last four digits of the Social Security

3315 number;

3316 (j) a record that:

3317 (i) contains information about an individual;

3318 (ii) is voluntarily provided by the individual; and

3319 (iii) goes into an electronic database that:

3320 (A) is designated by and administered under the authority of the Chief Information

3321 Officer; and

3322 (B) acts as a repository of information about the individual that can be electronically

3323 retrieved and used to facilitate the individual's online interaction with a state agency;

3324 (k) information provided to the Commissioner of Insurance under Subsection

3325 31A-23a-115(2)(a); and

3326 (l) information obtained through a criminal background check under Title 11, Chapter

3327 40, Criminal Background Checks by Political Subdivisions Operating Water Systems.

3328 (2) The following records are private if properly classified by a governmental entity:

3329 (a) records concerning a current or former employee of, or applicant for employment

3330 with a governmental entity, including performance evaluations and personal status information

3331 such as race, religion, or disabilities, but not including records that are public under Subsection

3332 63-2-301(1)(b) or 63-2-301(2)(o), or private under Subsection (1)(b);

3333 (b) records describing an individual's finances, except that the following are public:

3334 (i) records described in Subsection 63-2-301(1);

3335 (ii) information provided to the governmental entity for the purpose of complying with

3336 a financial assurance requirement; or

3337 (iii) records that must be disclosed in accordance with another statute;

3338 (c) records of independent state agencies if the disclosure of those records would

3339 conflict with the fiduciary obligations of the agency;

3340 (d) other records containing data on individuals the disclosure of which constitutes a

3341 clearly unwarranted invasion of personal privacy; and

3342 (e) records provided by the United States or by a government entity outside the state

3343 that are given with the requirement that the records be managed as private records, if the

3344 providing entity states in writing that the record would not be subject to public disclosure if

3345 retained by it.

3346 (3) (a) As used in this Subsection (3), "medical records" means medical reports,  
3347 records, statements, history, diagnosis, condition, treatment, and evaluation.

3348 (b) Medical records in the possession of the University of Utah Hospital, its clinics,  
3349 doctors, or affiliated entities are not private records or controlled records under Section  
3350 63-2-303 when the records are sought:

3351 (i) in connection with any legal or administrative proceeding in which the patient's  
3352 physical, mental, or emotional condition is an element of any claim or defense; or

3353 (ii) after a patient's death, in any legal or administrative proceeding in which any party  
3354 relies upon the condition as an element of the claim or defense.

3355 (c) Medical records are subject to production in a legal or administrative proceeding  
3356 according to state or federal statutes or rules of procedure and evidence as if the medical  
3357 records were in the possession of a nongovernmental medical care provider.

3358 Section 68. Section **63-34-13** is amended to read:

3359 **63-34-13. Private property ombudsman -- Powers -- Arbitration procedures.**

3360 (1) As used in this section:

3361 (a) "Constitutional taking" or "taking" means a governmental action that results in a  
3362 taking of private property so that compensation to the owner of the property is required by:

3363 (i) the Fifth or Fourteenth Amendment of the Constitution of the United States; or

3364 (ii) Utah Constitution Article I, Section 22.

3365 (b) "Takings law" means the provisions of the federal and state constitutions, the case  
3366 law interpreting those provisions, and any relevant statutory provisions that require a  
3367 governmental unit to compensate a private property owner for a constitutional taking.

3368 (2) (a) There is created a private property ombudsman in the Department of Natural  
3369 Resources.

3370 (b) The executive director of the Department of Natural Resources shall hire a person  
3371 with background or expertise in takings law to fill the position.

3372 (c) The person hired to fill the position is an exempt employee.

3373 (d) The executive director of the Department of Natural Resources may hire clerks,  
3374 interns, or other personnel to assist the private property ombudsman.

3375 (3) The private property ombudsman shall:

3376 (a) develop and maintain expertise in and understanding of takings law;

3377 (b) assist state agencies and local governments in developing the guidelines required by  
3378 this chapter and, Chapter 90a, Constitutional Taking Issues;

3379 (c) at the request of a state agency or local government, assist the state agency or local  
3380 government in analyzing actions with potential takings implications;

3381 (d) advise private property owners who have a legitimate potential or actual takings  
3382 claim against a state or local government entity;

3383 (e) identify state or local government actions that have potential takings implications  
3384 and, if appropriate, advise those state or local government entities about those implications;

3385 (f) provide information to private citizens, civic groups, government entities, and other  
3386 interested parties about takings law and their rights and responsibilities under it;

3387 (g) if appropriate and requested to do so by the private property owner, mediate or  
3388 conduct or arrange arbitration for disputes between private property owners and government  
3389 entities that involve:

3390 (i) takings issues law;

3391 (ii) actions for eminent domain under Title 78, Chapter 34, Eminent Domain; or

3392 (iii) disputes about relocation assistance under Title 57, Chapter 12, Utah Relocation  
3393 Assistance Act; and

3394 (h) if arbitration or mediation is requested by the private property owner under this  
3395 section, Section 78-34-21, or 57-12-14, and arranged by the private property ombudsman, the  
3396 government entity or condemning entity shall participate in the mediation or arbitration as if  
3397 the matter were ordered to arbitration by a court.

3398 (4) (a) (i) In conducting or arranging for arbitration, the private property ombudsman  
3399 shall follow the procedures and requirements of Title 78, Chapter 31a, Utah Uniform  
3400 Arbitration Act.

3401 (ii) In applying [~~the~~] Title 78, Chapter 31a, Utah Uniform Arbitration Act, the  
3402 arbitrator and parties shall treat the matter as if:

3403 (A) it were ordered to arbitration by a court; and

3404 (B) the private property ombudsman or other arbitrator chosen as provided for in this  
3405 section was appointed as arbitrator by the court.

3406 (iii) For the purpose of arbitrations conducted under this section, if the dispute to be  
3407 arbitrated is not already the subject of legal action, the district court having jurisdiction over

3408 the county where the private property involved in the dispute is located shall act as the court  
3409 referred to in Title 78, Chapter 31a, Utah Uniform Arbitration Act.

3410 (iv) The award from an arbitration conducted under this chapter may not be vacated  
3411 under the provisions of Subsection [~~78-31a-14(1)(e), Utah Arbitration Act,~~] 78-31a-124(1)(e)  
3412 because of the lack of an arbitration agreement between the parties.

3413 (b) The private property ombudsman shall issue a written statement declining to  
3414 arbitrate or to appoint an arbitrator when, in the opinion of the private property ombudsman:

3415 (i) the issues are not ripe for review;

3416 (ii) assuming the alleged facts are true, no cause of action exists under United States or  
3417 Utah law;

3418 (iii) all issues raised are beyond the scope of the ombudsman's statutory duty to review;

3419 or

3420 (iv) the arbitration is otherwise not appropriate.

3421 (c) (i) The private property ombudsman shall appoint another person to arbitrate a  
3422 dispute when:

3423 (A) either party objects to the private property ombudsman serving as the arbitrator and  
3424 agrees to pay for the services of another arbitrator;

3425 (B) the private property ombudsman declines to arbitrate the dispute for a reason other  
3426 than those stated in Subsection (4)(b) and one or both parties are willing to pay for the services  
3427 of another arbitrator; or

3428 (C) the private property ombudsman determines that it is appropriate to appoint  
3429 another person to arbitrate the dispute with no charge to the parties for the services of the  
3430 appointed arbitrator.

3431 (ii) In appointing another person to arbitrate a dispute, the private property ombudsman  
3432 shall appoint an arbitrator who is:

3433 (A) agreeable to both parties; or

3434 (B) agreeable to the party paying for the arbitrator and the private property  
3435 ombudsman.

3436 (iii) The private property ombudsman may, on the initiative of the private property  
3437 ombudsman or upon agreement of both parties, appoint a panel of arbitrators to conduct the  
3438 arbitration.

3439 (iv) The Department of Natural Resources may provide an arbitrator per diem and  
3440 reimburse expenses incurred in the performance of the arbitrator's duties at the rates established  
3441 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

3442 (d) In arbitrating a dispute, the arbitrator shall apply the relevant statutes, case law,  
3443 regulations, and rules of Utah and the United States in conducting the arbitration and in  
3444 determining the award.

3445 (e) The property owner and government entity may agree in advance of arbitration that  
3446 the arbitration shall be binding and that no de novo review may occur.

3447 (f) Arbitration by or through the private property ombudsman is not necessary before  
3448 bringing legal action to adjudicate any claim.

3449 (g) The lack of arbitration by or through the private property ombudsman does not  
3450 constitute, and may not be interpreted as constituting, a failure to exhaust available  
3451 administrative remedies or as a bar to bringing legal action.

3452 (h) Arbitration under this section is not subject to Chapter 46b, Administrative  
3453 Procedures Act, or Title 78, Chapter 31b, Alternative Dispute Resolution Act.

3454 (i) Within 30 days after the arbitrator issues the final award and except as provided in  
3455 Subsection (4)(e), any party may submit the award or any issue upon which the award is based  
3456 to the district court for de novo review.

3457 (5) The filing with the private property ombudsman of a request for mediation or  
3458 arbitration of a constitutional taking issue does not stay any county or municipal land use  
3459 decision, including the decision of a board of adjustment.

3460 (6) The private property ombudsman may not be compelled to testify in a civil action  
3461 filed with regard to the subject matter of any review or arbitration by the ombudsman.

3462 (7) (a) Except as provided in Subsection (7)(b), evidence of a review by the private  
3463 property ombudsman and his opinions, writings, findings, and determinations are not  
3464 admissible as evidence in an action subsequently brought in court and dealing with the same  
3465 dispute.

3466 (b) Subsection (7)(a) does not apply to:

3467 (i) actions brought under authority of Title 78, Chapter 6, Small Claims Courts;

3468 (ii) a judicial confirmation or review of the arbitration itself as authorized in Title 78,  
3469 Chapter 31a, Utah Uniform Arbitration Act; or



3470 (iii) actions for de novo review of an arbitration award or issue brought under the  
3471 authority of Subsection (4)(i).

3472 (8) The private property ombudsman may not represent private property owners, state  
3473 agencies, or local governments in court or in adjudicative proceedings under Chapter 46b,  
3474 Administrative Procedures Act.

3475 Section 69. Section **63-55-209** is amended to read:

3476 **63-55-209. Repeal dates, Title 9.**

3477 (1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is  
3478 repealed July 1, 2004.

3479 (2) Title 9, Chapter 2, Part 4, Enterprise Zone Act, is repealed July 1, 2008.

3480 (3) (a) Title 9, Chapter 2, Part 16, Recycling Market Development Zone Act, is  
3481 repealed July 1, 2010.

3482 (b) Sections 59-7-610 and 59-10-108.7, regarding tax credits for certain persons in  
3483 recycling market development zones, are repealed for taxable years beginning on or after  
3484 January 1, 2011.

3485 (c) Notwithstanding Subsection (3)(b), a person may not claim a tax credit under  
3486 Section 59-7-610 or 59-10-108.7:

3487 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or  
3488 59-10-108.7 if the machinery or equipment is purchased on or after July 1, 2010; or

3489 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-108.7(1)(b), if  
3490 the expenditure is made on or after July 1, 2010.

3491 (d) Notwithstanding Subsections (3)(b) and (c), a person may carry forward a tax credit  
3492 in accordance with Section 59-7-610 or 59-10-108.7 if:

3493 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-108.7; and

3494 (ii) (A) for the purchase price of machinery or equipment described in Section  
3495 59-7-610 or 59-10-108.7, the machinery or equipment is purchased on or before June 30, 2010;  
3496 or

3497 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-108.7(1)(b),  
3498 the expenditure is made on or before June 30, 2010.

3499 (4) Title 9, Chapter 2, Part 19, Utah Venture Capital Enhancement Act, is repealed July  
3500 1, 2008.

3501 (5) Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority, is repealed  
3502 July 1, 2009.

3503 (6) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act, is repealed July 1, 2006.

3504 ~~[(7) Title 9, Chapter 13, Utah Technology and Small Business Finance Act, is repealed~~  
3505 ~~July 1, 2002.]~~

3506 Section 70. Section **63-55-210** is amended to read:

3507 **63-55-210. Repeal dates, Title 10.**

3508 ~~[Section 10-3-703.5 is repealed July 1, 2002.]~~

3509 Section 71. Section **63-55-223** is amended to read:

3510 **63-55-223. Repeal dates, Title 23.**

3511 ~~[Title 23, Chapter 26, Wildlife Heritage Act, is repealed December 31, 2003.]~~

3512 Section 72. Section **63-55-241** is amended to read:

3513 **63-55-241. Repeal dates, Title 41.**

3514 The following provisions of Title 41 are repealed on the following dates:

3515 (1) Title 41, Chapter 12a, Part ~~[VHH]~~ 8, Uninsured Motorist Identification Database  
3516 Program, is repealed July 1, 2010.

3517 (2) The HOV lane exception for clean fuel special group license plate vehicles in  
3518 Subsection 41-6-53.5(5) is repealed December 31, 2005.

3519 Section 73. Section **63-55-253** is amended to read:

3520 **63-55-253. Repeal dates, Title 53A.**

3521 The following provisions of Title 53A are repealed on the following dates:

3522 ~~[(1) Title 53A, Chapter 1a, Part 2, Strategic Planning for Public and Higher Education~~  
3523 ~~Committee is repealed July 1, 2002.]~~

3524 ~~[(2)]~~ (1) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program is  
3525 repealed July 1, 2005.

3526 ~~[(3)]~~ (2) The State Instructional Materials Commission, created in Section 53A-14-101,  
3527 is repealed July 1, 2011.

3528 ~~[(4)]~~ (3) Title 53A, Chapter 20a, Public Education Revenue Bond Act, is repealed July  
3529 1, 2007.

3530 Section 74. Section **63-55-263** is amended to read:

3531 **63-55-263. Repeal dates, Titles 63 and 63A.**

3532 (1) (a) Title 63, Chapter 25a, Part 1, Commission on Criminal and Juvenile Justice, is  
3533 repealed July 1, 2004.

3534 (b) Title 63, Chapter 25a, Part 3, Sentencing Commission, is repealed January 1, 2012.

3535 (2) The Crime Victims' Reparations Board, created in Section 63-25a-404, is repealed  
3536 July 1, 2007.

3537 (3) The Resource Development Coordinating Committee, created in Section  
3538 63-38d-501, is repealed July 1, 2004.

3539 (4) Title 63, Chapter 38c, State Appropriations and Tax Limitation Act, is repealed  
3540 July 1, 2005.

3541 (5) Title 63, Chapter 75, Families, Agencies, and Communities Together for Children  
3542 and Youth At Risk Act, is repealed July 1, 2006.

3543 (6) Title 63, Chapter 88, Navajo Trust Fund, is repealed July 1, 2005.

3544 (7) Sections 63A-4-204 and 63A-4-205, authorizing the Risk Management Fund to  
3545 provide coverage to nonstate entities, are repealed July 1, 2006.

3546 [~~(8) Title 63A, Chapter 7, Utah Sports Authority Act, is repealed July 1, 2003.~~]

3547 [(9)] (8) Title 63A, Chapter 10, State Olympic Coordination Act, is repealed July 1,  
3548 2004.

3549 Section 75. Section **63-55-272** is amended to read:

3550 **63-55-272. Repeal dates, Title 72.**

3551 [~~Section 72-8-108, State Traffic and Pedestrian Safety Coordinating Council, is~~  
3552 ~~repealed July 1, 2003.~~]

3553 Section 76. Section **63-55b-126** is amended to read:

3554 **63-55b-126. Repeal dates -- Title 26.**

3555 [~~(1) Section 26-4-7.1 is repealed April 1, 2002.~~]

3556 [(2)] Title 26, Chapter 46, "Utah Health Care Workforce Financial Assistance  
3557 Program," is repealed July 1, 2007.

3558 Section 77. Section **63-55b-153** is amended to read:

3559 **63-55b-153. Repeal dates -- Titles 53, 53A, and 53B.**

3560 (1) Subsection 53-3-205(9)(a)(i)(D) is repealed July 1, 2007.

3561 (2) Subsection 53-3-804(2)(g) is repealed July 1, 2007.

3562 [~~(3) Title 53, Chapter 12, State Olympic Public Safety Command Act, is repealed July~~

3563 1, 2003.]

3564 [~~(4)~~] (3) Section 53A-1-403.5 is repealed July 1, 2007.

3565 [~~(5)~~] (4) Section 53B-8-104.5 is repealed July 1, 2009.

3566 Section 78. Section **63-55b-159** is amended to read:

3567 **63-55b-159. Repeal dates -- Title 59.**

3568 [~~(1) Section 59-7-604 is repealed January 1, 2002.~~]

3569 [~~(2)~~] Section 59-9-101.3 is repealed January 1, 2005, and the Labor Commission may

3570 not impose an assessment under Section 59-9-101.3 after December 31, 2004.

3571 Section 79. Section **63-55b-163** is amended to read:

3572 **63-55b-163. Repeal dates, Title 63.**

3573 (1) Section 63-38a-105 is repealed July 1, 2007.

3574 (2) Section 63-56-35.9 is repealed July 1, 2005.

3575 (3) Sections 63-63b-101 and 63-63b-102 are repealed on July 1, 2007.

3576 [~~(4) Title 63, Chapter 95, Parts 2 and 3 are repealed July 1, 2004.~~]

3577 Section 80. Section **63-55b-167** is amended to read:

3578 **63-55b-167. Repeal dates -- Title 67.**

3579 [~~Section 67-1-13 is repealed November 30, 2000.~~]

3580 Section 81. Section **63-55b-176** is amended to read:

3581 **63-55b-176. Repeal dates -- Title 76.**

3582 [~~Section 76-10-531 is repealed April 1, 2002.~~]

3583 Section 82. Section **63A-3-205** is amended to read:

3584 **63A-3-205. Revolving loan funds -- Standards and procedures -- Annual report.**

3585 (1) As used in this section, "revolving loan fund" means:

3586 (a) the Water Resources Conservation and Development Fund, created in Section

3587 73-10-24;

3588 (b) the Water Resources Construction Fund, created in Section 73-10-8;

3589 (c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

3590 (d) the Clean Fuel Conversion Funds, created in Title [~~9~~] 63, Chapter [~~1~~] 34, Part [~~7~~] 2,

3591 Clean Fuels Conversion Program;

3592 (e) the Water Development Security Account and its subaccounts created in Section

3593 73-10c-5;

- 3594 (f) the Agriculture Resource Development Fund, created in Section 4-18-6;  
 3595 (g) the Utah Rural Rehabilitation Fund, created in Section 4-19-4;  
 3596 (h) the Permanent Community Impact Fund, created in Section 9-4-303;  
 3597 (i) the Petroleum Storage Tank Loan Fund, created in Section 19-6-405.3;  
 3598 (j) the Uintah Basin Revitalization Fund, created in Section 9-10-102; and  
 3599 (k) the Navajo Revitalization Fund, created in Section 9-11-104.
- 3600 (2) The division shall for each revolving loan fund:
- 3601 (a) make rules establishing standards and procedures governing:
- 3602 (i) payment schedules and due dates;  
 3603 (ii) interest rate effective dates;  
 3604 (iii) loan documentation requirements; and  
 3605 (iv) interest rate calculation requirements;
- 3606 (b) make an annual report to the Legislature containing:
- 3607 (i) the total dollars loaned by that fund during the last fiscal year;  
 3608 (ii) a listing of each loan currently more than 90 days delinquent, in default, or that was  
 3609 restructured during the last fiscal year;
- 3610 (iii) a description of each project that received money from that revolving loan fund;  
 3611 (iv) the amount of each loan made to that project;  
 3612 (v) the specific purpose for which the proceeds of the loan were to be used, if any;  
 3613 (vi) any restrictions on the use of the loan proceeds;  
 3614 (vii) the present value of each loan at the end of the fiscal year calculated using the  
 3615 interest rate paid by the state on the bonds providing the revenue on which the loan is based or,  
 3616 if that is unknown, on the average interest rate paid by the state on general obligation bonds  
 3617 issued during the most recent fiscal year in which bonds were sold; and  
 3618 (viii) the financial position of each revolving loan fund, including the fund's cash  
 3619 investments, cash forecasts, and equity position.

3620 Section 83. Section **63E-1-102** is amended to read:

3621 **63E-1-102. Definitions.**

3622 As used in this title:

- 3623 (1) "Authorizing statute" means the statute creating an entity as an independent entity.  
 3624 (2) "Committee" means the Retirement and Independent Entities Committee created in

3625 Section 63E-1-201.

3626 (3) "Independent corporation" means a corporation incorporated in accordance with  
3627 Chapter 2, Independent Corporations Act.

3628 (4) (a) "Independent entity" means an entity having a public purpose relating to the  
3629 state or its citizens that is individually created by the state or is given by the state the right to  
3630 exist and conduct its affairs as an:

3631 (i) independent state agency; or

3632 (ii) independent corporation.

3633 (b) "Independent entity" includes the:

3634 (i) Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

3635 [~~(ii)~~] ~~Utah Technology Finance Corporation created in Title 9, Chapter 13, Utah~~  
3636 ~~Technology and Small Business Finance Act;~~

3637 [~~(iii)~~] (ii) Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 3, Heber  
3638 Valley Historic Railroad Authority;

3639 [~~(iv)~~] (iii) Utah Science Center Authority created in Title 9, Chapter 3, Part 4, Utah  
3640 Science Center Authority;

3641 [~~(v)~~] (iv) Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah Housing  
3642 Corporation Act;

3643 [~~(vi)~~] (v) Utah State Fair Corporation created in Title 9, Chapter 4, Part 11, Utah State  
3644 Fair Corporation Act;

3645 [~~(vii)~~] (vi) Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'  
3646 Compensation Fund;

3647 [~~(viii)~~] (vii) Utah State Retirement Office created in Title 49, Chapter 11, Utah State  
3648 Retirement Systems Administration;

3649 [~~(ix)~~] (viii) School and Institutional Trust Lands Administration created in Title 53C,  
3650 Chapter 1, Part 2, School and Institutional Trust Lands Administration;

3651 [~~(x)~~] (ix) Utah Communications Agency Network created in Title 63C, Chapter 7, Utah  
3652 Communications Agency Network Act; and

3653 [~~(xi)~~] (x) Utah Capital Investment Corporation created in Title 9, Chapter 2, Part 19,  
3654 Utah Venture Capital Enhancement Act.

3655 (c) Notwithstanding this Subsection (4), "independent entity" does not include:

- 3656 (i) the Public Service Commission of Utah created in Section 54-1-1;  
3657 (ii) an institution within the state system of higher education;  
3658 (iii) a city, county, or town;  
3659 (iv) a local school district;  
3660 (v) a special district created under the authority of Title 17A, Special Districts; or  
3661 (vi) a local district created under the authority of Title 17B, Limited Purpose Local  
3662 Government Entities.

3663 (5) "Independent state agency" means an entity that is created by the state, but is  
3664 independent of the governor's direct supervisory control.

3665 (6) "Monies held in trust" means monies maintained for the benefit of:

- 3666 (a) one or more private individuals, including public employees;  
3667 (b) one or more public or private entities; or  
3668 (c) the owners of a quasi-public corporation.

3669 (7) "Public corporation" means an artificial person, public in ownership, individually  
3670 created by the state as a body politic and corporate for the administration of a public purpose  
3671 relating to the state or its citizens.

3672 (8) "Quasi-public corporation" means an artificial person, private in ownership,  
3673 individually created as a corporation by the state which has accepted from the state the grant of  
3674 a franchise or contract involving the performance of a public purpose relating to the state or its  
3675 citizens.

3676 Section 84. Section **64-13-6** is amended to read:

3677 **64-13-6. Department duties.**

3678 (1) The department shall:

- 3679 (a) protect the public through institutional care and confinement, and supervision in the  
3680 community of offenders where appropriate;  
3681 (b) implement court-ordered punishment of offenders;  
3682 (c) provide program opportunities for offenders;  
3683 (d) provide treatment for sex offenders who are found to be treatable based upon  
3684 criteria developed by the department;  
3685 (e) provide the results of ongoing assessment of sex offenders and objective diagnostic  
3686 testing to sentencing and release authorities;

3687 (f) manage programs that take into account the needs and interests of victims, where  
3688 reasonable;

3689 (g) supervise probationers and parolees as directed by statute and implemented by the  
3690 courts and the Board of Pardons and Parole;

3691 (h) subject to Subsection (2), investigate criminal conduct involving offenders  
3692 incarcerated in a state correctional facility;

3693 (i) cooperate and exchange information with other state, local, and federal law  
3694 enforcement agencies to achieve greater success in prevention and detection of crime and  
3695 apprehension of criminals; and

3696 (j) implement the provisions of Section 77-28c-102, Interstate Compact for Adult  
3697 Offender Supervision.

3698 (2) (a) By following the procedures in Subsection (2)(b), the department may  
3699 investigate the following occurrences at state correctional facilities:

3700 (i) criminal conduct of departmental employees;

3701 (ii) felony crimes resulting in serious bodily injury;

3702 (iii) death of any person; or

3703 (iv) aggravated kidnaping.

3704 (b) Prior to investigating any occurrence specified in Subsection (2)(a), the department  
3705 shall:

3706 (i) notify the sheriff or other appropriate law enforcement agency promptly after  
3707 ascertaining facts sufficient to believe an occurrence specified in Subsection (2)(a) has  
3708 occurred; and

3709 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to  
3710 conduct an investigation involving an occurrence specified in Subsection (2)(a).

3711 (3) Upon request, the department shall provide copies of investigative reports of  
3712 criminal conduct to the sheriff or other appropriate law enforcement agencies.

3713 (4) ~~[In accordance with Section 63-55-264, the]~~ The department shall provide data to  
3714 the Commission on Criminal and Juvenile Justice to show the criteria for determining sex  
3715 offender treatability, the implementation and effectiveness of sex offender treatment, and the  
3716 results of ongoing assessment and objective diagnostic testing. The Commission on Criminal  
3717 and Juvenile Justice will then report these data to the Judiciary Interim Committee and to the



3718 appropriate appropriations subcommittee annually.

3719 (5) The Department of Corrections shall collect accounts receivable ordered by the  
3720 district court as a result of prosecution for a criminal offense according to the requirements and  
3721 during the time periods established in Subsection 77-18-1(9).

3722 Section 85. Section **70C-6-101** is amended to read:

3723 **70C-6-101. Scope -- Relation to credit insurance -- Applicability to parties.**

3724 (1) Except as provided in Subsection (2), this chapter applies to insurance provided or  
3725 to be provided in connection with any consumer credit transaction subject to this title.

3726 (2) The provision on cancellation by a creditor under Section 70C-6-304 applies to  
3727 extensions of credit, the primary purpose of which is the financing of insurance. No other  
3728 provision of this chapter applies to insurance so financed.

3729 (3) Except as provided elsewhere under this title, this chapter supplements and does  
3730 not supersede Title 31A, Chapter 22, Part [VHH] 8, Credit Life and Accident and Health  
3731 Insurance. The provisions of this title concerning administrative controls, liabilities, and  
3732 penalties do not apply to persons acting as insurers, and the similar provisions of the Credit  
3733 Insurance Act do not apply to creditors and debtors.

3734 Section 86. Section **70C-6-203** is amended to read:

3735 **70C-6-203. Filing and approval of rates and forms.**

3736 (1) A creditor may use a form or a schedule of premium rates or charges concerning  
3737 consumer credit insurance only if the form or schedule has been on file with the Insurance  
3738 Department for at least 30 days and has not been disapproved by the Insurance Department or  
3739 has been specifically approved by the Insurance Department at any time after filing.

3740 (2) Except as provided in Subsection (3), all policies, certificates of insurance, notices  
3741 of proposed insurance, applications for insurance, endorsements and riders relating to  
3742 consumer credit insurance delivered or issued for delivery in this state, and the schedules of  
3743 premium rates or charges pertaining to them, shall be filed by the insurer with the Insurance  
3744 Department. Within 30 days after the filing of any form or schedule, the Insurance Department  
3745 shall disapprove it if the premium rates or charges are unreasonable in relation to the benefits  
3746 provided under the form, or if the form contains provisions which are unjust, unfair,  
3747 inequitable, or deceptive, or encourages misrepresentation, or are contrary to any provisions of  
3748 this title, or Title 31A, Chapter 22, Part [VHH] 8, Credit Life and Accident and Health

3749 Insurance, or of any rule adopted under that act or this title.

3750 (3) If a group policy has been delivered in another state, the forms to be filed by the  
3751 insurer with the Insurance Department are the group certificates and notices of proposed  
3752 insurance. The Insurance Department shall approve those certificates and notices if:

3753 (a) they provide the information that would be required if the group policy were  
3754 delivered in this state; and

3755 (b) the applicable premium rates or charges do not exceed those established by the  
3756 Insurance Department's rules.

3757 Section 87. Section **73-18c-307** is amended to read:

3758 **73-18c-307. Claims adjustment by persons with owner's or operator's security**  
3759 **other than insurance.**

3760 (1) An owner or operator of a personal watercraft who maintains owner's or operator's  
3761 security by a means other than an insurance policy under Section 73-18c-102, shall refer all  
3762 bodily injury claims against the owner's or operator's security to an independent adjuster  
3763 licensed under Title 31A, Chapter 26, Insurance Adjusters, or to an attorney.

3764 (2) Unless otherwise provided by contract, any personal watercraft claim adjustment  
3765 expense incurred by a person maintaining owner's or operator's security by a means other than  
3766 an insurance policy under Section 73-18c-102, shall be paid by the person who maintains this  
3767 type of owner's or operator's security.

3768 (3) Owners and operators of personal watercraft maintaining owner's or operator's  
3769 security by a means other than an insurance policy under Section 73-18c-102 are subject to the  
3770 claim adjustment provisions of Title 31A, Chapter 26, Part [~~III, Claims~~] 3, Claim Practices, in  
3771 connection with claims against persons which arise out of the ownership, maintenance, or use  
3772 of a personal watercraft.

3773 Section 88. Section **75-7-309** is amended to read:

3774 **75-7-309. Limitations on presentation of claims.**

3775 (1) All claims against a deceased settlor which arose before the death of the deceased  
3776 settlor, including claims of the state and any subdivision of it, whether due or to become due,  
3777 absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal  
3778 basis, if not barred earlier by other statute of limitations, are barred against the deceased  
3779 settlor's estate, the trustee, the trust estate, and the beneficiaries of the deceased settlor's trust,

3780 unless presented within the earlier of the following:

3781 (a) one year after the settlor's death; or

3782 (b) the time provided by Subsection [~~75-3-308~~] 75-7-308(2) for creditors who are  
3783 given actual notice, and where notice is published, within the time provided in Subsection  
3784 [~~75-3-308~~] 75-7-308(1) for all claims barred by publication.

3785 (2) In all events, claims barred by the nonclaim statute at the deceased settlor's  
3786 domicile are also barred in this state.

3787 (3) All claims against a deceased settlor's estate or trust estate which arise at or after  
3788 the death of the settlor, including claims of the state and any of its subdivisions, whether due or  
3789 to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or  
3790 other legal basis are barred against the deceased settlor's estate, the trustee, the trust estate, and  
3791 the beneficiaries of the deceased settlor, unless presented as follows:

3792 (a) a claim based on a contract with the trustee within three months after performance  
3793 by the trustee is due; or

3794 (b) any other claim within the later of three months after it arises, or the time specified  
3795 in Subsection (1).

3796 (4) Nothing in this section affects or prevents:

3797 (a) any proceeding to enforce any mortgage, pledge, or other lien upon property of the  
3798 deceased settlor's estate or the trust estate;

3799 (b) to the limits of the insurance protection only, any proceeding to establish liability of  
3800 the deceased settlor or the trustee for which he is protected by liability insurance; or

3801 (c) collection of compensation for services rendered and reimbursement for expenses  
3802 advanced by the trustee or by the attorney or accountant for the trustee of the trust estate.

3803 Section 89. Section **76-7-301** is amended to read:

3804 **76-7-301. Definitions.**

3805 As used in this part:

3806 (1) "Abortion" means the intentional termination or attempted termination of human  
3807 pregnancy after implantation of a fertilized ovum, and includes all procedures undertaken to  
3808 kill a live unborn child and includes all procedures undertaken to produce a miscarriage.

3809 "Abortion" does not include removal of a dead unborn child.

3810 (2) "Medical emergency" means that condition which, on the basis of the physician's

3811 good faith clinical judgment, so complicates the medical condition of a pregnant woman as to  
3812 necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay  
3813 will create serious risk of substantial and irreversible impairment of major bodily function.

3814 (3) "Physician" means a medical doctor licensed to practice medicine and surgery  
3815 under ~~[the]~~ Title 58, Chapter 67, Utah Medical Practice Act, a physician in the employment of  
3816 the government of the United States who is similarly qualified, or an osteopathic physician  
3817 licensed to practice medicine under ~~[the]~~ Title 58, Chapter 68, Utah Osteopathic [Medicine  
3818 Licensing] Medical Practice Act.

3819 (4) "Hospital" means a general hospital licensed by the Department of Health  
3820 according to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and  
3821 includes a clinic or other medical facility to the extent that such clinic or other medical facility  
3822 provides equipment and personnel sufficient in quantity and quality to provide the same degree  
3823 of safety to the pregnant woman and the unborn child as would be provided for the particular  
3824 medical procedures undertaken by a general hospital licensed by the Department of Health. It  
3825 shall be the responsibility of the Department of Health to determine if such clinic or other  
3826 medical facility so qualifies and to so certify.

3827 Section 90. Section **76-7-302** is amended to read:

3828 **76-7-302. Circumstances under which abortion authorized.**

3829 (1) An abortion may be performed in this state only by a physician licensed to practice  
3830 medicine under ~~[the]~~ Title 58, Chapter 67, Utah Medical Practice Act or an osteopathic  
3831 physician licensed to practice medicine under ~~[the]~~ Title 58, Chapter 68, Utah Osteopathic  
3832 [Medicine Licensing] Medical Practice Act and, if performed 90 days or more after the  
3833 commencement of the pregnancy as defined by competent medical practices, it shall be  
3834 performed in a hospital.

3835 (2) An abortion may be performed in this state only under the following circumstances:

3836 (a) in the professional judgment of the pregnant woman's attending physician, the  
3837 abortion is necessary to save the pregnant woman's life;

3838 (b) the pregnancy is the result of rape or rape of a child, as defined by Sections  
3839 76-5-402 and 76-5-402.1, that was reported to a law enforcement agency prior to the abortion;

3840 (c) the pregnancy is the result of incest, as defined by Subsection 76-5-406(10) or  
3841 Section 76-7-102, and the incident was reported to a law enforcement agency prior to the

3842 abortion;

3843 (d) in the professional judgment of the pregnant woman's attending physician, to  
3844 prevent grave damage to the pregnant woman's medical health; or

3845 (e) in the professional judgment of the pregnant woman's attending physician, to  
3846 prevent the birth of a child that would be born with grave defects.

3847 (3) After 20 weeks gestational age, measured from the date of conception, an abortion  
3848 may be performed only for those purposes and circumstances described in Subsections (2)(a),  
3849 (d), and (e).

3850 (4) The name of a victim reported pursuant to Subsection (2)(b) or (c) is confidential  
3851 and may not be revealed by law enforcement or any other party except upon approval of the  
3852 victim. This subsection does not effect or supersede parental notification requirements  
3853 otherwise provided by law.

3854 Section 91. Section **77-13-6** is amended to read:

3855 **77-13-6. Withdrawal of plea.**

3856 (1) A plea of not guilty may be withdrawn at any time prior to conviction.

3857 (2) (a) A plea of guilty or no contest may be withdrawn only upon leave of the court  
3858 and a showing that it was not knowingly and voluntarily made.

3859 (b) A request to withdraw a plea of guilty or no contest, except for a plea held in  
3860 abeyance, shall be made by motion before sentence is announced. Sentence may not be  
3861 announced unless the motion is denied. For a plea held in abeyance, a motion to withdraw the  
3862 plea shall be made within 30 days of pleading guilty or no contest.

3863 (c) Any challenge to a guilty plea not made within the time period specified in  
3864 Subsection (2)(~~e~~)(b) shall be pursued under Title 78, Chapter 35a, Post-Conviction Remedies  
3865 Act, and Rule 65C, Utah Rules of Civil Procedure.

3866 Section 92. Section **77-32-401.5** is amended to read:

3867 **77-32-401.5. Interim board -- Members -- Administrative support -- Duties.**

3868 (1) Until the Indigent Defense Funds Board authorized by Section 77-32-401 is  
3869 constituted after achieving the number of participating counties required by Sections 77-32-604  
3870 and 77-32-704, an interim board may be created within the Division of Finance composed of  
3871 the following three members:

3872 (a) a county commissioner from a county participating in the Indigent Inmate Trust

3873 Fund pursuant to Section 77-32-502 appointed by the Utah Association of Counties;

3874 (b) a county attorney from a county participating in the Indigent Inmate Trust Fund

3875 pursuant to Section 77-32-502 appointed by the Utah Association of Counties; and

3876 (c) a representative appointed by the Administrative Office of the Courts.

3877 (2) The Division of Finance shall provide administrative support to the interim board.

3878 (3) (a) Members shall serve until the Indigent Defense Funds Board is constituted.

3879 (b) When a vacancy occurs in the membership for any reason, a replacement shall be

3880 appointed for the remaining unexpired term in the same manner as the original appointment.

3881 (4) (a) Compensation for members shall be the same as provided in Subsection

3882 77-32-401(6).

3883 (b) Per diem and expenses for board members shall be paid from the Indigent Inmate

3884 Trust Fund in Section 77-32-502.

3885 (5) Until the Indigent Defense Funds Board is constituted, the interim board shall be

3886 authorized to carry out any responsibility provided to the Indigent Defense Funds Board in

3887 statute as it relates to Chapter [77] 32, Part 5, Indigent Inmates.

3888 (6) The action by two members present shall constitute the action of the board.

3889 Section 93. Section **78-3a-503 (Superseded 07/01/04)** is amended to read:

3890 **78-3a-503 (Superseded 07/01/04). Citation procedure -- Citation -- Offenses --**

3891 **Time limits -- Failure to appear.**

3892 (1) As used in this section, "citation" means an abbreviated referral and is sufficient to

3893 invoke the jurisdiction of the court in lieu of a petition.

3894 (2) A citation shall be submitted to the court within five days of its issuance.

3895 (3) Each copy of the citation shall contain:

3896 (a) the name and address of the juvenile court before which the minor is to appear;

3897 (b) the name of the minor cited;

3898 (c) the statute or local ordinance that is alleged to have been violated;

3899 (d) a brief description of the offense charged;

3900 (e) the date, time, and location at which the offense is alleged to have occurred;

3901 (f) the date the citation was issued;

3902 (g) the name and badge or identification number of the peace officer or public official

3903 who issued the citation;

3904 (h) the name of the arresting person if an arrest was made by a private party and the  
3905 citation was issued in lieu of taking the arrested minor into custody as provided in Section  
3906 78-3a-113;

3907 (i) the date and time when the minor is to appear, or a statement that the minor and  
3908 parent or legal guardian are to appear when notified by the juvenile court; and

3909 (j) the signature of the minor and the parent or legal guardian, if present, agreeing to  
3910 appear at the juvenile court as designated on the citation.

3911 (4) Each copy of the citation shall contain space for the following information to be  
3912 entered if known:

3913 (a) the minor's address;

3914 (b) the minor's date of birth;

3915 (c) the name and address of the minor's custodial parent or legal guardian, if different  
3916 from the minor; and

3917 (d) if there is a victim, the victim's name, address, and an estimate of loss, except that  
3918 this information shall be removed from the documents the minor receives.

3919 (5) A citation received by the court beyond the time designated in Subsection (2) shall  
3920 include a written explanation for the delay.

3921 (6) The following offenses may be sent to the juvenile court as a citation:

3922 (a) violations of fish and game laws;

3923 (b) violations of boating laws;

3924 (c) violations of curfew laws;

3925 (d) any class B misdemeanor or less traffic violations where the person is under the age  
3926 of 16;

3927 (e) any class B or class C misdemeanor or infraction;

3928 (f) any other infraction or misdemeanor as designated by general order of the Board of  
3929 Juvenile Court Judges; and

3930 (g) violations of Section 76-10-105 subject to the jurisdiction of the Juvenile Court.

3931 (7) A preliminary inquiry is not required unless requested by the court.

3932 (8) The provisions of Subsection (5) may not apply to a runaway, ungovernable, or  
3933 habitually truant minor.

3934 (9) In the case of Section 76-10-105 violations committed on school property when a

3935 citation is issued under this section, the peace officer, public official, or compliance officer  
3936 shall issue one copy to the minor cited, provide the parent or legal guardian with a copy, and  
3937 file a duplicate with the juvenile court specified in the citation within five days.

3938 (10) (a) A minor receiving a citation described in this section shall appear at the  
3939 juvenile court designated in the citation on the time and date specified in the citation or when  
3940 notified by the juvenile court.

3941 (b) A citation may not require a minor to appear sooner than five days following its  
3942 issuance.

3943 (11) A minor who receives a citation and willfully fails to appear before the juvenile  
3944 court pursuant to a citation is subject to arrest and may be found in contempt of court. The  
3945 court may proceed against the minor as provided in Section 78-3a-901 regardless of the  
3946 disposition of the offense upon which the minor was originally cited.

3947 (12) When a citation is issued under this section, bail may be posted and forfeited  
3948 under Subsection 78-3a-114~~(10)~~(12) with the consent of the court and parent or legal  
3949 guardian of the minor cited.

3950 Section 94. Section **78-11-22** is amended to read:

3951 **78-11-22. Good Samaritan Act.**

3952 (1) A person who renders emergency care at or near the scene of, or during an  
3953 emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a  
3954 result of any act or omission by the person rendering the emergency care, unless the person is  
3955 grossly negligent or caused the emergency. As used in this section, "emergency" means an  
3956 unexpected occurrence involving injury, threat of injury, or illness to a person or the public,  
3957 including motor vehicle accidents, disasters, actual or threatened discharges, removal, or  
3958 disposal of hazardous materials, and other accidents or events of a similar nature. "Emergency  
3959 care" includes actual assistance or advice offered to avoid, mitigate, or attempt to mitigate the  
3960 effects of an emergency.

3961 (2) A person who gratuitously, and in good faith, assists governmental agencies or  
3962 political subdivisions in the activities described in Subsections (2)(a) through (c) is not liable  
3963 for any civil damages or penalties as a result of any act or omission unless the person rendering  
3964 assistance is grossly negligent in:

3965 (a) ~~[implementation of]~~ implementing measures to control the causes of epidemic and



3966 communicable diseases and other conditions significantly affecting the public health, or  
3967 necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health  
3968 Departments;

3969 (b) investigating and controlling suspected bioterrorism and disease as set out in Title  
3970 26, Chapter 23b, Detection of Public Health Emergencies Act; and

3971 (c) responding to a national, state, or local emergency, a public health emergency as  
3972 defined in Section 26-23b-102, or a declaration by the President of the United States or other  
3973 federal official requesting public health-related activities.

3974 (3) The immunity in Subsection (2) is in addition to any immunity or protection in state  
3975 or federal law that may apply.

3976 Section 95. Section **78-31b-6** is amended to read:

3977 **78-31b-6. Minimum procedures for arbitration.**

3978 (1) An award in an arbitration proceeding shall be in writing and, at the discretion of  
3979 the arbitrator or panel of arbitrators, may state the reasons or otherwise explain the nature or  
3980 amount of the award.

3981 (2) The award shall be final and enforceable as any other judgment in a civil action,  
3982 unless:

3983 (a) within 30 days after the filing of the award with the clerk of the court any party files  
3984 with the clerk of court a demand for a trial de novo upon which the case shall be returned to the  
3985 trial calendar; or

3986 (b) any party files with the arbitrator or panel of arbitrators and serves a copy on all  
3987 other parties a written request to modify the award on the grounds:

3988 (i) there is an evident miscalculation of figures or description of persons or property  
3989 referred to in the award;

3990 (ii) the award does not dispose of all the issues presented to the arbitrator or panel of  
3991 arbitrators for resolution; or

3992 (iii) the award purports to resolve issues not submitted for resolution in the arbitration  
3993 process.

3994 (c) The period for filing a demand for trial de novo is tolled until the arbitrator or panel  
3995 of arbitrators have acted on the request to modify the award, which must be completed within  
3996 30 days of the filing.

3997 (3) The parties to an arbitration procedure may stipulate that:  
3998 (a) an award need not be filed with the court, except in those cases where the rights of  
3999 third parties may be affected by the provisions of the award; and  
4000 (b) the case is dismissed in which the award was made.

4001 (4) (a) At any time the parties may enter into a written agreement for referral of the  
4002 case or of issues in the case to arbitration pursuant to Title 78, Chapter 31a, Utah Uniform  
4003 Arbitration Act, or the Federal Arbitration Act, 9 U.S.C. Sec. 1 et seq., as the parties shall  
4004 specify.

4005 (b) The court may dismiss the case, or if less than all the issues are referred to  
4006 arbitration, stay the case for a reasonable period for the parties to complete a private arbitration  
4007 proceeding.

4008 Section 96. Section **78-31b-8** is amended to read:

4009 **78-31b-8. Confidentiality.**

4010 (1) ADR proceedings shall be conducted in a manner that encourages informal and  
4011 confidential exchange among the persons present to facilitate resolution of the dispute or a part  
4012 of the dispute. ADR proceedings shall be closed unless the parties agree that the proceedings  
4013 be open. ADR proceedings shall not be recorded.

4014 (2) No evidence concerning the fact, conduct, or result of an ADR proceeding may be  
4015 subject to discovery or admissible at any subsequent trial of the same case or same issues  
4016 between the same parties.

4017 (3) No party to the case may introduce as evidence information obtained during an  
4018 ADR proceeding unless the information was discovered from a source independent of the ADR  
4019 proceeding.

4020 (4) Unless all parties and the neutral agree, no person attending an ADR proceeding,  
4021 including the ADR provider or ADR organization, may disclose or be required to disclose any  
4022 information obtained in the course of an ADR proceeding, including any memoranda, notes,  
4023 records, or work product.

4024 (5) Except as provided, an ADR provider or ADR organization may not disclose or  
4025 discuss any information about any ADR proceeding to anyone outside the proceeding,  
4026 including the judge or judges to whom the case may be assigned. An ADR provider or an  
4027 ADR organization may communicate information about an ADR proceeding with the director

4028 for the purposes of training, program management, or program evaluation and when consulting  
4029 with a peer. In making those communications, the ADR provider or ADR organization shall  
4030 render anonymous all identifying information.

4031 (6) Nothing in this section limits or affects the responsibility to report child abuse or  
4032 neglect in accordance with Section 62A-4a-403.

4033 (7) No records of ADR proceedings under this act or under Title 78, Chapter 31a, Utah  
4034 Uniform Arbitration Act, shall be subject to Title 63, Chapter 2, Government Records Access  
4035 and Management Act, except settlement agreements filed with the court after conclusion of an  
4036 ADR proceeding or awards filed with the court after the period for filing a demand for trial de  
4037 novo has expired.

4038 Section 97. **Repealer.**

4039 This bill repeals:

4040 Section **59-1-212, Taxation studies -- Tax Commission duties.**

**Legislative Review Note**  
as of 1-13-04 7:47 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

**Interim Committee Note**  
as of 01-16-04 9:51 AM

The House Rules Committee recommended this bill.

**Interim Committee Note**  
as of 01-16-04 9:51 AM

The Senate Rules Committee recommended this bill.

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**Fiscal Note**  
**Bill Number SB0108**

Revisor's Statute

22-Jan-04

11:09 AM

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**